

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - - X  
 UNITED STATES OF AMERICA, : 18-CR-0204(NGG)  
 :  
 Plaintiff, :  
 :  
 -against- : United States Courthouse  
 : Brooklyn, New York  
 KEITH RANIERE, :  
 :  
 Defendant. : Monday, April 22, 2019  
 : 9:30 a.m.

- - - - - X

TRANSCRIPT OF CRIMINAL CAUSE FOR JURY SELECTION  
BEFORE THE HONORABLE NICHOLAS G. GARAUFI  
UNITED STATES SENIOR DISTRICT JUDGE

A P P E A R A N C E S:

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Jury selection

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1 (In open court.)

2 (The Hon. Nicholas G. Garaufis, presiding.)

3 (Defendant present.)

4 (The following occurs outside the presence of the potential  
5 jurors.)

6 THE COURTROOM DEPUTY: Case on trial.

7 THE COURT: You may be seated in the back.

8 Appearances please.

9 MS. PENZA: Moira Kim Penza, Tanya Hajjar, Michael  
10 Lesko and Special Agent Michael Weniger of the FBI at  
11 counsel's table for the United States.

12 MR. AGNIFILO: Mark Agnifilo, Paul Derohannesian,  
13 Danielle Smith, Teny Geragos and Keith Raniere is present with  
14 us here in court this morning.

15 THE COURT: The FBI agent is who?

16 MS. PENZA: Michael Weniger, W-E-N-I-G-E-R.

17 THE COURT: Please be seated. I believe all of the  
18 20 prospective jurors have arrived so we will get started with  
19 this in a moment. The Court received a motion from the  
20 defense to suppress certain images. Have you seen that?

21 MS. PENZA: Your Honor we received it only a few  
22 moments before coming over here. We have asked someone to  
23 bring copies over. On first glance it seems like a desperate  
24 attempt at this late hour given the fact that they have known  
25 about 8 Hale, which is the location where the images were

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1 found.

2 THE COURT: The building, you mean?

3 MS. PENZA: Yes, Your Honor. So, from the beginning  
4 of this case, defendant Ranieri has stated that he did not  
5 intend to assert any privacy interest over any of the devices  
6 recovered from 8 Hale. That being said, the motion, I  
7 understand, also relies on a false premise which is that we  
8 did not seek an additional warrant for the child pornography.  
9 We did indeed seek such an additional warrant. It was just  
10 not disclosed to defense counsel because they had said they  
11 were ere not asserting a privacy interest in 8 Hale.

12 THE COURT: Having said all of that, when can you  
13 have something in writing back to the Court? You do not know  
14 because you have not seen it?

15 MS. PENZA: Correct, Your Honor.

16 THE COURT: Well, let me know once you have seen it  
17 how fast you can get that back to the Court.

18 MS. PENZA: We will, Your Honor.

19 THE COURT: Thank you.

20 What we are going to do is I am going to bring in  
21 all 20 jurors and I am going to give a brief statement to them  
22 to remind them not to discuss or read about the case and what  
23 I am planning to say is that since last time they were here  
24 there were three defendants and now there is one going to  
25 trial. I am going to say that Keith Ranieri is the only

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1 defendant who will stand trial before this jury. Please do  
2 not speculate as to why this is the case. Is that acceptable  
3 to everybody?

4 MR. AGNIFILO: It is.

5 MS. PENZA: Yes, Your Honor.

6 THE COURT: When I ask the questions of the jurors  
7 and we are bringing them in one at a time, at some point if  
8 you want a sidebar that is to ask -- have me ask a follow-up  
9 question just say, Sidebar, please. I will look around the  
10 room. If there is nothing more to be said, I will send the  
11 juror out. The juror will leave the building. They're not  
12 going back in the jury room after they are questioned. If  
13 there are objections, I will note before each juror comes in  
14 whether there's an objection to that juror. I don't think any  
15 of the jurors that we see this morning were objected to by the  
16 Government, but there are some who were objected to by the  
17 defense, right?

18 MR. AGNIFILO: Yes, Judge.

19 THE COURT: Question?

20 MR. MOYNIHAN: My name is Colin Moynihan. I'm a  
21 reporter from The New York Times. If you're planning to  
22 question the jurors at sidebar, I would like to ask that at  
23 least one reporter be present for that and be able to share  
24 notes with the others.

25 THE COURT: Do the parties have a view about this?

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1           My belief, going in, the only reason we would do  
2 that is if there was some privacy issue that the juror would  
3 not like to discuss, for example, in discussing the abortion  
4 question, a juror might not want to talk in public or anywhere  
5 else about the fact that she was -- she claims she was raped  
6 and she had a fetus as a result of the rape and that she  
7 was -- it necessitated an abortion. I have to take into  
8 account privacy interests. So that would be the only reason  
9 we would question a juror at sidebar. It would be at the  
10 request of the juror for the sensitivity of what the juror  
11 wanted to tell the Court.

12           I am just wondering how that would violate a First  
13 Amendment right of the press. There are limitations on that,  
14 too. I am not going to do a whole research project on it, but  
15 what is the view of the parties?

16           MR. AGNIFILO: This is -- we had this situation,  
17 exactly this situation, in the Shkreli case.

18           THE COURT: Was abortion an issue in the Shkreli  
19 case?

20           MR. AGNIFILO: No, no. There were different issues,  
21 but not that. What we did was -- there was a two-part  
22 situation. If the juror signaled to Your Honor that the juror  
23 had something confidential or private that the juror wanted to  
24 convey to the Court, the single reporter who was permitted to  
25 go to the sidebar was not permitted to go to the sidebar for

## Jury selection

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1 that part. So it seems like if Your Honor's question to the  
2 jurors is if you have something that you wish to remain  
3 confidential, we can do that at sidebar, my view would be that  
4 would bring us into the situation, if we use Shkreli, as a  
5 model where the reporter would not come but the reporter or  
6 reporters would be privy to everything other than that.

7 MS. PENZA: Your Honor, the Government defers to the  
8 Court. Obviously there are very sensitive topics here and if  
9 Your Honor doesn't feel they're appropriately shared with the  
10 press, the Government defers to that.

11 THE COURT: Let me say this: If there is a subject  
12 that is raised by a juror who claims that it's sensitive and  
13 private and the juror comes to the sidebar but it is not  
14 really of the type that I just described to you, the juror  
15 will just go back to the seat and be questioned publicly about  
16 it and that will have to suffice. I think I have to honor the  
17 basic desire of a juror not to be embarrassed in public about  
18 something that is highly emotional. And I still need the  
19 answers to these questions to avoid sitting a juror who is --  
20 who does not qualify. This never came up in all the other  
21 cases where I have done this particular way of selecting a  
22 jury so I am going to leave it at that.

23 Yes.

24 MS. SAUL: Emily Saul with the New York Post. As a  
25 reporter who participated in the sidebars for Shkreli and

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1 Mr. Agnifilo can correct me if I'm wrong, what we did was we  
2 had a reporter who was ready to move up to the sidebar as they  
3 were convened and when the potential juror was told there's a  
4 reporter present. If there was an issue, the reporter would  
5 step back and there wasn't having to go to the jury box and  
6 all of this sort of back and forth that might complicate  
7 things. I don't know if you would be interested in using that  
8 model. I thought I would put that out there because it seemed  
9 to work.

10 THE COURT: Have you designated someone?

11 MS. SAUL: I will do it. I will give any colleagues  
12 who are interested the notes.

13 THE COURT: I will let you know.

14 MS. SAUL: Thank you, Your Honor. I appreciate  
15 that.

16 THE COURT: Anything else?

17 MR. AGNIFILO: Nothing from us, Judge.

18 MS. PENZA: No, Your Honor.

19 (Pause in proceedings.)

20 THE COURT: Now, if I have asked a number of  
21 questions and it appears to the Court that the objection  
22 should be granted, I may say, Are there any other questions,  
23 and you will have a pretty good idea based on what the juror  
24 has said and if you think we should continue for an  
25 objected-to juror, just say can we have a sidebar. We can go

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1 to sidebar and you can tell me what other questions you want  
2 me to ask.

3 MR. AGNIFILO: Thank you, Judge.

4 MS. PENZA: Thank you, Your Honor.

5 (Pause in proceedings.)

6 (Prospective jurors enter.)

7 THE COURT: Please be seated, everyone.

8 Good morning. I am Judge Garaufis. We met at the  
9 time that you filled out your questionnaires in the ceremonial  
10 courtroom. First of all, I want to thank all of you for your  
11 attentiveness to the process of filling out the  
12 questionnaires. Today what we are going to do is we are going  
13 to ask some follow-up questions based on the answers that you  
14 gave on your questionnaires. We have reviewed the  
15 questionnaires very carefully and there are a few questions  
16 that we will have for each one of you.

17 The way it will work is that we will interview each  
18 of you, but only one person at a time, so that we can give you  
19 full attention and we will try to be as efficient about it as  
20 possible. Now, you will recall from your last time here that  
21 this is a criminal case. I am going to introduce the lawyers  
22 in the case.

23 For the Government, they are Moira Penza, Tanya  
24 Hajjar, and Mark Lesko seated at that table. They are joined  
25 by Michael Weniger, who is the FBI case agent on the case.



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1 The defendant at the defense table is Keith Raniere. He is  
2 joined by his attorneys Mark Agnifilo, Teny Geragos, Paul  
3 Derohannesian, and Danielle Smith.

4 Mr. Raniere is the only defendant who will stand  
5 trial before this jury. Please do not speculate as to why  
6 this is the case. I am going to indicate that when you are  
7 finished with being questioned, you can leave for the day but  
8 you have to keep calling in. So let me just remind you that  
9 it is extremely important that you follow my instruction that  
10 you not discuss this case with anyone; not your family,  
11 friends, your business associates and not the other jurors.

12 So when you are in the jury room waiting to be  
13 interviewed, you can talk about anything you want. You can  
14 talk about the Yankees, the Mets, the spring, other things,  
15 but please do not discuss anything about this case with each  
16 other.

17 In addition, you must not read, listen to, watch any  
18 accounts of this case on any form of media: Newspapers, TV,  
19 radio, pod casts or the internet, no research or seek outside  
20 information about any aspect of the case. Please do not  
21 communicate with anyone about the case on your phone, whether  
22 through e-mail, text messaging or any other means; through any  
23 blog or website or by way of any social media including  
24 Facebook, Twitter, YouTube and other similar sites. You must  
25 not consider anything you may have read or heard about the

Prospective Juror No. 5

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1 case outside this courtroom whether you read it before or  
2 during voir dire. Voir dire is this process of selecting the  
3 jury. Do not attempt any independent research or  
4 investigation about the case and do not visit any of the  
5 locations identified in the questionnaire or discussed during  
6 the course of the jury selection process. As I said, do not  
7 discuss the case in the jury room while waiting to be  
8 interviewed.

9 Now, let me go over some of the timing. The trial  
10 will begun on Tuesday, May 7th and last up to six weeks. The  
11 Court will provide a schedule of trial dates before the trial  
12 starts. Please continue to call in for jury information on  
13 the phone line that you were instructed to call when you were  
14 here last. So what we are going to do now is I am going to  
15 ask all of you except Juror No. 5 --

16 Where is Juror No. 5? You will stay put and  
17 everyone else will retire to the jury room.

18 We will call you out one at a time. Thank you for  
19 your attention.

20 Please rise for the jurors.

21 (Prospective jurors exit.)

22 THE COURT: Please be seated everyone.

23 Good morning, sir. You are Juror No. 5?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: And you indicated that you have a

Prospective Juror No. 5

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1 hardship in connection with serving on this jury. Can you  
2 explain what the hardship is?

3 PROSPECTIVE JUROR: Because my wife just had an  
4 abortion and she currently have low blood pressure and she  
5 keeps fainting so I have to take care of her and my two little  
6 children, four and one. My wife had an abortion on Tuesday  
7 and she keep constantly having low blood pressure right now  
8 and I have to help her taking care of my two children, four  
9 and one.

10 THE COURT: Now, are you working, sir?

11 PROSPECTIVE JUROR: Yes, that's why I changed to  
12 part-time now to just take care of them.

13 THE COURT: Are there any other questions for this  
14 juror?

15 MS. PENZA: Nothing from us.

16 MR. AGNIFILO: No, Your Honor.

17 THE COURT: Thank you very much. Have a nice day,  
18 you will continue to call in.

19 PROSPECTIVE JUROR: Thank you.

20 THE COURT: Good luck to you.

21 (Prospective juror exits.)

22 THE COURT: Is there a motion?

23 MR. AGNIFILO: We ask that the juror be excused.

24 THE COURT: Any objection?

25 MS. PENZA: No, Your Honor.

Prospective Juror No. 10

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1 THE COURT: All right. Juror No. 5 is excused for  
2 cause.

3 MR. AGNIFILO: Yes, Judge.

4 (Prospective juror excused.)

5 (Prospective juror enters.)

6 THE COURT: You are Juror No. 10; is that right?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Now, you indicated that you are employed  
9 full-time?

10 PROSPECTIVE JUROR: I am.

11 THE COURT: And you also indicated that it would not  
12 be a hardship for you to be a juror. Is that your view?

13 PROSPECTIVE JUROR: No, because I work per diem so  
14 missing work, you know, would be a pretty big hardship for me.

15 THE COURT: How is that?

16 PROSPECTIVE JUROR: I have a lot of student loans  
17 and bills to pay so if I miss work I don't get paid by my  
18 employer to be here.

19 THE COURT: So a six-week trial would be a problem?

20 PROSPECTIVE JUROR: Yeah.

21 THE COURT: Why do you think you indicated that it  
22 wouldn't be a problem is my only question?

23 PROSPECTIVE JUROR: I think I wrote later in the  
24 questionnaire that, you know, at first I was thinking it  
25 probably wouldn't be a big deal. I double checked with my

Prospective Juror No. 11

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1 employers and I don't get paid so it's a bigger deal than I  
2 thought it was going to be at first.

3 THE COURT: Do you rent or --

4 PROSPECTIVE JUROR: Yeah, I rent.

5 THE COURT: Are there other questions?

6 MR. AGNIFILO: Nothing from us, Judge.

7 MS. PENZA: No, Your Honor.

8 THE COURT: Okay, well thank you very much. Thanks  
9 for coming in.

10 (Prospective juror exits.)

11 THE COURT: Is there a motion?

12 MR. AGNIFILO: Yes, excused for cause.

13 MS. PENZA: No objection.

14 THE COURT: Juror No. 10 is excused for hardship.

15 (Prospective juror excused.)

16 THE COURT: Next will be Juror No. 11.

17 (Prospective juror enters.)

18 THE COURT: Please be seated, sir. Good morning.

19 PROSPECTIVE JUROR: Good morning. How are you?

20 THE COURT: Very well. Now, in your questionnaire  
21 you indicated that in answer to this question, "Have you ever  
22 known anyone you believe was falsely accused of sexual abuse  
23 or sexual assault of a minor or an adult?" You said, "Yes."  
24 Then you said, "Former student was falsely accused." Then the  
25 next question was, "Do you worry about you or someone close to

Prospective Juror No. 11

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1 you being falsely accused of sexual abuse or sexual assault"  
2 and you said, "Yes, I work in a high school."

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Would this experience have any effect on  
5 your ability to fairly and impartially judge the evidence in  
6 this case?

7 PROSPECTIVE JUROR: No.

8 THE COURT: You also indicated that you saw  
9 something about the case on Fox News. Do you remember what  
10 you saw?

11 PROSPECTIVE JUROR: Just it was on the news, just  
12 kind of what you said he's being indicted of and kind of  
13 passing by on the way to the shower I saw it on the news.

14 THE COURT: Whatever that was, to the extent that  
15 there was any factual information in the story that you recall  
16 could you put it aside and not consider it and only consider  
17 the evidence that's presented here in court in deciding  
18 whether the defendant is guilty or not of the crimes of which  
19 he is accused.

20 PROSPECTIVE JUROR: Absolutely.

21 THE COURT: Now, you indicated that -- well, there  
22 is a question here, "The charges in this case involve  
23 allegations of, among other things, sex trafficking, forced  
24 labor, child pornography and child exploitation. Is there  
25 anything about the nature of these allegations that would make

Prospective Juror No. 11

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1 it difficult for you to be fair and impartial?" You answered,  
2 "Yes, as a teacher I may have an issue dealing with stories of  
3 children." Are you saying that you feel you could not fairly  
4 consider these allegations?

5 PROSPECTIVE JUROR: I don't know how I would react  
6 to stories of children being abused.

7 THE COURT: Do you think you are able to fairly  
8 consider and evaluate the testimony, witnesses and other  
9 evidence that is presented to you in order to decide whether  
10 the defendant is guilty beyond a reasonable doubt?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Well, let me ask you the reasonable  
13 doubt question. "The Government has the burden of proof to  
14 prove these allegations beyond a reasonable doubt. Are you  
15 willing to accept and comply with this legal requirement in a  
16 case involving allegations of child pornography and child  
17 sexual exploitation?" Here you said "No" and then you said "I  
18 don't know." Well, today, do you know or don't you know?

19 PROSPECTIVE JUROR: I believe I would be able to be  
20 impartial.

21 THE COURT: So, I had one follow-up question.  
22 Considering what you said in the questionnaire and I now have  
23 your follow-up answers, if you were accused of a serious  
24 crime, would you be willing to be judged by someone with your  
25 concerns and your comments that you previously provided to the

Prospective Juror No. 11

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1 Court?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Anything else?

4 MR. AGNIFILO: Nothing from us, Judge.

5 MS. PENZA: No, Your Honor.

6 THE COURT: Thank you very much, sir. Have a nice  
7 day.

8 (Prospective juror exits.)

9 THE COURT: Is there a motion?

10 MR. AGNIFILO: One second, Judge, I'm sorry.

11 (Pause in the proceedings.)

12 MR. AGNIFILO: Your Honor, I don't think we have a  
13 basis for a cause challenge based on the answers to Your  
14 Honor's questions.

15 THE COURT: All right. Juror No. 11 is qualified.

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17 (Continued on the following page.)

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1 (Continuing.)

2 THE COURT: Next we're going to have Juror No. 12.

3 (Prospective juror enters.)

4 THE COURT: Please be seated, ma'am. Good morning.

5 THE PROSPECTIVE JUROR: Good morning.

6 THE COURT: You're Juror No. 12.

7 THE PROSPECTIVE JUROR: Correct.

8 THE COURT: Just keep your voice up, if you can.

9 I just have a couple of questions for you. You  
10 answered the following question. The question was: Have you  
11 or any member of your family or close friends worked for or  
12 applied for a position in the U.S. Attorney's Office, the  
13 District Attorney's office, the Federal Bureau of  
14 Investigation, the Immigration and Naturalization Service, the  
15 Department of Homeland Security, the Internal Revenue Service,  
16 U.S. Immigration and Customs Enforcement, New York State  
17 Police, New York City Police Department, or any other federal,  
18 state, or local law enforcement agency?

19 You answered, Yes.

20 And you indicated that you work for a government  
21 agency; is that right?

22 THE PROSPECTIVE JUROR: Correct.

23 THE COURT: And that you had a cousin apply to work  
24 for another government agency?

25 THE PROSPECTIVE JUROR: Yes, I had one cousin apply

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1 to work for the Department of Homeland Security and another  
2 one that's going through the New Jersey police department  
3 academy training. I have another one that's going through the  
4 New York PD recruiting process.

5 THE COURT: So, you have relatives who are  
6 interested in working for government law enforcement agencies.

7 THE PROSPECTIVE JUROR: Correct.

8 THE COURT: Now, my question is, does the fact that  
9 you have relatives who are seeking to work in law enforcement  
10 and you're working for a government agency, would that impact  
11 on your ability to be fair and impartial in a case where there  
12 will be law enforcement officers who testify?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: Anything else?

15 MR. AGNIFILO: Nothing from us.

16 THE COURT: Anything else from the Government?

17 MS. PENZA: No, Your Honor.

18 THE COURT: Thank you very much. Have a nice day.

19 (Prospective juror exits.)

20 THE COURT: Is there a motion from anybody?

21 MR. AGNIFILO: We do not have a basis for cause,  
22 Judge.

23 THE COURT: Okay. Juror No. 12 is approved.

24 Who is Rick Ross?

25 MS. PENZA: Your Honor, he is the -- was one of the

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1 litigants who Mr. Raniere and other people involved in Nxivm  
2 had sued at one point in time, and a lawsuit involving him is  
3 the basis for one of the predicate acts that has been charged.

4 THE COURT: I'll ask how this individual knows a  
5 Rick Ross. It may not be the same Rick Ross.

6 MS. PENZA: It may not be.

7 (Prospective juror enters.)

8 THE COURT: Please be seated. Good morning.

9 THE PROSPECTIVE JUROR: Good morning.

10 THE COURT: You are Juror No. 13?

11 THE PROSPECTIVE JUROR: Yes.

12 THE COURT: Welcome. I just have a few follow-up  
13 questions for you.

14 Now, you indicated that you're employed full-time --

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: -- by a private organization.

17 THE PROSPECTIVE JUROR: Yes.

18 THE COURT: Do you know what their policy is about  
19 paying you for jury duty?

20 THE PROSPECTIVE JUROR: Yes. They cover ten days.

21 THE COURT: They cover ten days.

22 This trial is expected to take six weeks, as I said  
23 earlier.

24 THE PROSPECTIVE JUROR: Yes.

25 THE COURT: Would the fact that you only two weeks

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1 of pay affect your ability to meet your financial obligations?

2 THE PROSPECTIVE JUROR: Yes. I live alone, so if I  
3 don't get paid for about a month or month and a half, it will  
4 be a definite hardship for me.

5 THE COURT: It's a hardship?

6 THE PROSPECTIVE JUROR: Yeah. I live alone, like I  
7 said.

8 THE COURT: Any other questions?

9 MR. AGNIFILO: Nothing from us.

10 MS. PENZA: No, Your Honor.

11 THE COURT: Okay. Thank you very much. Have a nice  
12 day.

13 THE PROSPECTIVE JUROR: Thank you.

14 (Prospective juror exits.)

15 MR. AGNIFILO: We ask that she be excused as a  
16 hardship, Judge.

17 MS. PENZA: No objection, Your Honor.

18 THE COURT: Yes, motion is granted.

19 (Prospective juror enters.)

20 THE COURT: Please be seated, sir. Good morning.

21 THE PROSPECTIVE JUROR: Good morning, sir.

22 THE COURT: You're Juror No. 16, correct?

23 THE PROSPECTIVE JUROR: That's correct.

24 THE COURT: I just have a few follow-up questions  
25 for you.

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1           That visit from the State, that's happening at the  
2 end of this month?

3           THE PROSPECTIVE JUROR: Yes, it will take place at  
4 my school that I work at.

5           THE COURT: It's on April 30?

6           THE PROSPECTIVE JUROR: Tuesday, April 30.

7           THE COURT: So, it wouldn't interfere with this  
8 case.

9           THE PROSPECTIVE JUROR: Yeah, it wouldn't -- I would  
10 say yes.

11          THE COURT: Thank you.

12          There are some questions here, one of which was,  
13 There may be evidence in this case that includes sexually  
14 explicit images and language. Would hearing about that type  
15 of evidence affect your ability to serve as a fair and  
16 impartial juror in this case?

17          You answered, Yes, it would make me feel  
18 uncomfortable.

19          And then the next question was: Would you be able  
20 to listen and discuss matters of sexual nature with fellow  
21 jurors?

22          You said: Not really because they are total  
23 strangers.

24          My question is, while it might be uncomfortable to  
25 listen to evidence about issues of a sexual nature, would you

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1 be able to listen to witnesses and view evidence and fairly  
2 and impartially consider the evidence that's presented to you  
3 before reaching any conclusions about whether the Defendant is  
4 guilty or not guilty of the crimes charged?

5 THE PROSPECTIVE JUROR: I would try my best, but,  
6 again -- I think I also wrote down on the questionnaire that I  
7 did know a little bit about the case prior to arriving.

8 THE COURT: Where did you learn about the case?

9 THE PROSPECTIVE JUROR: Probably, like, a month or  
10 so prior, there was some writings that I saw about -- I think  
11 it was an actress that was involved, or at least alleged at  
12 that time.

13 THE COURT: The actress isn't going to be on trial.

14 THE PROSPECTIVE JUROR: No, I understand, but I read  
15 things of the particular nature that that was involved.

16 And then prior to that -- I think it was the next  
17 day the paper had some information about the case or at least  
18 what happened to that individual pertaining maybe to this  
19 case. The Daily News, or whatever it was.

20 THE COURT: Was this before you filled out the  
21 questionnaire?

22 THE PROSPECTIVE JUROR: No, that was -- what I had  
23 read prior was, but then the next day, if memory serves me  
24 correctly, we came on a Monday, the following day, which that  
25 explained why the cameras were outside of the building,

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1 because that verdict was issued and you put the pieces  
2 together. And, like I said, that was on the headlines.

3 THE COURT: I see.

4 Is the fact that this case might get media attention  
5 something that would affect your ability to be fair and  
6 impartial in considering the evidence?

7 THE PROSPECTIVE JUROR: To be fair to the Defendant,  
8 if I already wrote down that I already knew some information,  
9 I don't think that would be fair.

10 THE COURT: Well, if the Court instructs you that  
11 you're only to consider the evidence that is presented in  
12 court and nothing else -- you can't help that you saw  
13 something in the paper a while back. But whether or not  
14 that's accurate or complete or even relevant to this case is  
15 something that is really for the Court to decide. And it's  
16 for you to decide the case based on the evidence in the trial  
17 and nothing else.

18 THE PROSPECTIVE JUROR: I said I would do my best.

19 THE COURT: Good.

20 THE PROSPECTIVE JUROR: But I am, as I mentioned  
21 earlier, already made aware of things. So, it's not like I'm  
22 in the dark. I have some ideas about the case.

23 THE COURT: I'm glad you told us. Thank you very  
24 much.

25 Now, would you be able to follow the Court's

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1 instruction that from this point forward you not read or watch  
2 or access any information about the case and the only thing  
3 you will hear and see that you'll consider is here in court?

4 THE PROSPECTIVE JUROR: That I can't guarantee  
5 because people at work were already speculating what case I  
6 could be working on when they heard that I was called down for  
7 jury duty. So, I could do my part but I can't say that the  
8 people around me won't add things or say things to give me  
9 some ideas.

10 THE COURT: You work in an educational institution  
11 where everybody has a bachelor's degree at least.

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: And I've worked in a school. If someone  
14 were to approach you and want to talk about it, all you need  
15 to do is say, The judge says I can't talk about it and you  
16 can't talk to me about it.

17 THE PROSPECTIVE JUROR: That's true, sure.

18 THE COURT: So, that's the answer.

19 And anyone who will be on this jury -- it's a jury  
20 for six weeks -- people are going to put two and two together.  
21 You know, I'm not saying it's easy to do --

22 THE PROSPECTIVE JUROR: Right.

23 THE COURT: -- if you're with colleagues, but it's  
24 something that we all have to do to maintain the -- our effort  
25 to be fair and impartial and only consider issues that are



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1 raised in court.

2 Are there other questions?

3 MR. AGNIFILO: I have none, Judge.

4 MS. PENZA: No, Your Honor.

5 THE COURT: Thank very much, sir. You have a nice  
6 day.

7 THE PROSPECTIVE JUROR: Thank you.

8 (Prospective juror exits.)

9 MR. AGNIFILO: I'm going to ask that we excuse him  
10 for cause, Judge. He came back to his theme, which is while  
11 Your Honor said he had to follow instructions, he said, It  
12 would only be fair to the Defendant if I let you know I have  
13 heard about certain things.

14 And he certainly vacillated on his ability to keep  
15 this external content out of the trial.

16 The other thing that he's talking about, he knows  
17 something about other proceedings in this case which might end  
18 up being relevant if those people testify. And I think that  
19 person might. So, this is someone that he seems to have some  
20 ideas about because he read about it, he expressed concern  
21 about his knowledge about it.

22 So, in total, I think it's a close call, but in our  
23 view it goes on the for cause side of the ledger.

24 MS. PENZA: Your Honor, the Government doesn't  
25 object because the Court made very clear that at the time that

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1 the questionnaires were filled out, that none of the jurors  
2 were to the read anything further about the case, and he  
3 obviously did choose to read the next day.

4 So, given his choice not to follow your instructions  
5 already, the Government consents.

6 THE COURT: All right. Motion is granted.  
7 Juror No. 16 is struck for cause.

8 (Prospective juror enters.)

9 THE COURT: Please be seated, everyone.  
10 Good morning, sir. You're Juror No. 17, are you  
11 not?

12 THE PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: I just have a few follow-up questions  
14 for you.

15 You work full-time, right?

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: What kind of work do you do?

18 THE PROSPECTIVE JUROR: Security.

19 THE COURT: Do you know if you'll be paid by your  
20 employer for the full period of your jury service?

21 THE PROSPECTIVE JUROR: No, I won't.

22 THE COURT: You won't be paid?

23 THE PROSPECTIVE JUROR: No.

24 THE COURT: For what part of it will you be paid?

25 THE PROSPECTIVE JUROR: They won't pay me.

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1 THE COURT: I'm sorry?

2 THE PROSPECTIVE JUROR: My company, my employer,  
3 won't pay me.

4 THE COURT: Have you checked?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: Would that be a hardship for six weeks?

7 THE PROSPECTIVE JUROR: I don't think so.

8 THE COURT: You don't think so?

9 THE PROSPECTIVE JUROR: I don't think it's going to  
10 be hard.

11 THE COURT: Now, you answered this question. The  
12 question was: Other than friends and relatives, please list  
13 the three people you least admire and why.

14 And you said your brother, your father, and your  
15 uncle. Those are the people you least admire?

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: Why is that?

18 THE PROSPECTIVE JUROR: Don't have a good  
19 relationship with them.

20 THE COURT: And how long has that been?

21 THE PROSPECTIVE JUROR: Couple years.

22 THE COURT: You don't speak to them?

23 THE PROSPECTIVE JUROR: I speak to my uncle. Not my  
24 brother.

25 THE COURT: Any special reason why?

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1 THE PROSPECTIVE JUROR: Long story.

2 THE COURT: Oh, okay, well...

3 Now, there's a question here: There may be evidence  
4 in this case about people engaging in relationships with  
5 multiple sexual partners. Would hearing about that type of  
6 evidence affect your ability to serve as a fair and impartial  
7 juror in this case?

8 You checked off yes, and you said: I have a big  
9 problem with child abuse. My first cousin was abused.

10 THE PROSPECTIVE JUROR: Yes.

11 THE COURT: Let me just ask you this: There will be  
12 evidence presented in this case of that nature, and a question  
13 will be whether the Government, in the end, whether the  
14 Government has proven that the Defendant committed certain  
15 specific crimes that have some relation to this or a relation  
16 to this beyond a reasonable doubt.

17 Do you think that given the type of crimes that are  
18 being -- of which the Defendant is accused that you could  
19 fairly and impartially consider whether the Government has met  
20 its burden of proof of guilt beyond a reasonable doubt?

21 THE PROSPECTIVE JUROR: I think I could do it.

22 THE COURT: Have you ever been a juror before?

23 THE PROSPECTIVE JUROR: Never.

24 THE COURT: Then there's another question: There  
25 may be evidence in this case that includes sexually explicit

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1 images and language. Would hearing about that type of  
2 evidence affect your ability to serve as a fair and impartial  
3 juror in this case?

4 You checked off yes and you said: I'm going to be  
5 honest, yes, it may.

6 And why is that?

7 THE PROSPECTIVE JUROR: I had a cousin that was, you  
8 know, abused before, and it was a real tough time for our  
9 family. So, I think it might, you know -- it might affect me  
10 somewhat.

11 THE COURT: Let me ask you this: Given your  
12 answers, both on the questionnaire and here in court, if you  
13 were accused of any of these crimes, would you want a person  
14 in your state of mind to be a juror in your case?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: Any other questions?

17 MR. AGNIFILO: Nothing from us.

18 MS. PENZA: No, Your Honor.

19 THE COURT: Thank you very much. Have a nice day,  
20 sir.

21 THE PROSPECTIVE JUROR: Thank you.

22 (Prospective juror exits.)

23 THE COURT: Is there a motion?

24 MR. AGNIFILO: We would ask that he be excused for  
25 cause, Your Honor.

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1 MS. PENZA: No objection.

2 THE COURT: All right. Juror No. 17 is excused for  
3 cause.

4 (Prospective juror enters.)

5 THE COURT: Please be seated, sir. Good morning.

6 THE PROSPECTIVE JUROR: Good morning.

7 THE COURT: You're Juror No. 18.

8 THE PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: You indicated that you're very busy.

10 THE PROSPECTIVE JUROR: So is everybody.

11 THE COURT: That's true. But you also indicated  
12 that you had some hearing issues; is that right?

13 THE PROSPECTIVE JUROR: I do.

14 THE COURT: Could you just explain how that what the  
15 issue is and how it might affect your ability to concentrate  
16 here in court?

17 THE PROSPECTIVE JUROR: I have what's called  
18 "tinnitus," which is a damage to the inner ears. I have a  
19 constant ringing in my ears and there's no cure for it, it  
20 never stops. And it actually from time to time can change  
21 octaves; it gets a higher pitch, a lower pitch.

22 It really can be difficult at times for hearing and  
23 for concentration.

24 THE COURT: So, in your work, how do you adjust --

25 THE PROSPECTIVE JUROR: Well, I've had the condition

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1 for almost 30 years now and it depends a lot on the  
2 environment that I'm in. I can't explain how or why it  
3 changes sounds.

4 I've been to doctors before, and it is a common  
5 disease that just causes me a lot of difficulty sometimes.

6 THE COURT: You're an employee of your company?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: And you only get paid for two weeks?

9 THE PROSPECTIVE JUROR: Company policy is only two  
10 weeks.

11 THE COURT: I see. And would that create a hardship  
12 for you?

13 THE PROSPECTIVE JUROR: Absolutely.

14 THE COURT: Why is that?

15 THE PROSPECTIVE JUROR: Well, as we all do, we all  
16 have incomes that we need to pay our bills. And for me to  
17 lose 15 or 20 thousand dollars in the course of six or eight  
18 weeks Could be very difficult for me to overcome.

19 THE COURT: Are there other questions?

20 MR. AGNIFILO: Nothing from us.

21 THE COURT: Is there a number of a question that you  
22 want me to follow up about?

23 MS. PENZA: Not a number, no, Your Honor.

24 THE COURT: Anything else?

25 MS. PENZA: No, Your Honor.

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1 THE COURT: Thank you for coming in, sir. Have a  
2 nice day.

3 (Prospective juror exits.)

4 THE COURT: Let me just say that in reviewing this  
5 questionnaire, I got the sense that the juror was mentioning a  
6 number of things that might prevent him from being a juror on  
7 this case. I don't know that his medical condition was in and  
8 of itself that significant. He's very successful in business,  
9 so, obviously, he's overcome the problem in order to make  
10 \$20,000 a month.

11 Is there a motion?

12 MR. AGNIFILO: We would ask that he be excused for  
13 cause based on he said it would be a hardship. And he doesn't  
14 seem like he wants to be on the case, and that combined with  
15 hardship I think is enough.

16 MS. PENZA: Your Honor, the Government objects to  
17 him being stricken for cause. We don't believe that's a  
18 hardship, given what he said regarding his income, his answer  
19 about his income here and on the questionnaire, that it  
20 actually is a substantial hardship --

21 THE COURT: It's not.

22 MS. PENZA: Thank you, Your Honor.

23 THE COURT: What about the other issue about the  
24 hearing?

25 MS. PENZA: Your Honor, he had no difficulty hearing



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1 and understanding the Court's questions. Given his success in  
2 business -- obviously, if there are needs to take breaks, he  
3 could use the microphone, the earpiece, if necessary, but it  
4 doesn't seem that it actually is something that would impede  
5 his ability to participate in the trial.

6 THE COURT: You want me to bring him back and finish  
7 asking him questions?

8 MS. PENZA: If Your Honor wishes to and whether  
9 there are any accommodations that could be made.

10 But given the way he was responding to you, given  
11 what it appears to be his line of work is as a general  
12 manager, it would seem that those would require the same types  
13 of skills and abilities to listen to and interact with people  
14 that would be necessary to serve as a juror.

15 THE COURT: Anything else from you?

16 MR. AGNIFILO: Yes. I would ask that Your Honor  
17 bring him back.

18 THE COURT: I'll bring him back.

19 MR. AGNIFILO: Also, there's another question,  
20 Question 37 in the questionnaire.

21 THE COURT: Yes, I should have asked him that.

22 MR. AGNIFILO: And Question 52 as well, I'm told.

23 THE COURT: All right. We'll bring him back.

24 MR. AGNIFILO: Thank you, Judge.

25 Judge, just 37, not 52.

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1 THE COURT: Thirty-seven. All right.

2 Juror No. 19.

3 (Prospective juror enters.)

4 THE COURT: Please be seated, ma'am. Good morning.

5 THE PROSPECTIVE JUROR: Good morning.

6 THE COURT: Keep your voice up, okay?

7 THE PROSPECTIVE JUROR: Okay.

8 THE COURT: Thank you.

9 Now, how much pay do you receive for jury duty?

10 THE PROSPECTIVE JUROR: How much I paid?

11 THE COURT: No.

12 How much pay do you receive from your employer? How  
13 many days?

14 THE PROSPECTIVE JUROR: Three days, up to three  
15 days.

16 THE COURT: You checked?

17 THE PROSPECTIVE JUROR: Yes.

18 THE COURT: Would that create a hardship for you if  
19 you had to be a juror for six weeks?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: Why is that?

22 THE PROSPECTIVE JUROR: I have to pay the mortgage  
23 and stuff.

24 THE COURT: Do you work for a private company or for  
25 a government?

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1 THE PROSPECTIVE JUROR: Private company.

2 THE COURT: I see.

3 Any questions?

4 MR. AGNIFILO: Nothing from us.

5 MS. PENZA: No, Your Honor.

6 THE COURT: All right. Thank you for coming in.

7 Have a nice day.

8 THE PROSPECTIVE JUROR: Thank you.

9 (Prospective juror exits.)

10 THE COURT: Is there a motion?

11 MR. AGNIFILO: Yes. We ask that she be excused for  
12 cause as a hardship.

13 MS. PENZA: No objection, Your Honor.

14 THE COURT: Okay. Motion is granted.

15 (Prospective juror enters.)

16 THE PROSPECTIVE JUROR: Good morning.

17 THE COURT: Please be seated, sir. Good morning. I  
18 just have a few follow-up questions for you.

19 You indicated that you're having physical therapy  
20 for chronic back pain?

21 THE PROSPECTIVE JUROR: Yes.

22 THE COURT: How long have you had this condition?

23 THE PROSPECTIVE JUROR: It's been for a while, but  
24 doctor prescribed me for physical therapy.

25 THE COURT: I'm sorry, try to speak into the

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1 microphone.

2 THE PROSPECTIVE JUROR: It's been for a while, but  
3 doctor prescribed me for physical therapy.

4 THE COURT: How long have you been having physical  
5 therapy?

6 THE PROSPECTIVE JUROR: Already four, five sessions  
7 done and still several remaining.

8 THE COURT: Is this a problem that you had before?

9 THE PROSPECTIVE JUROR: It's been a while. Like  
10 I've been feeling like a year ago, year and a half.

11 THE COURT: You're employed, correct?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: Do you work for a private company or do  
14 you work for the government?

15 THE PROSPECTIVE JUROR: Private company. In a  
16 hotel. Hotel industry.

17 THE COURT: I see.

18 And do you know what their policy is regarding  
19 paying you for jury service?

20 THE PROSPECTIVE JUROR: They pay, yeah.

21 THE COURT: They pay?

22 THE PROSPECTIVE JUROR: Yeah.

23 THE COURT: All right. Now, there was a question  
24 here, the question was: How important is your faith, if any,  
25 to you?

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1           And you said: Extremely important, and I make major  
2 life decisions based on my faith.

3           THE PROSPECTIVE JUROR: Yes.

4           THE COURT: Would that fact have any effect on your  
5 ability to be a fair and impartial juror and follow the  
6 instructions of the Court in this case?

7           THE PROSPECTIVE JUROR: No.

8           THE COURT: There was a question here: Other than  
9 friends and relatives, who are the three people living or dead  
10 that you most admire and why?

11           You just put an asterisk there. You didn't answer  
12 it otherwise.

13           Is there some reason why you didn't answer that  
14 question?

15           THE PROSPECTIVE JUROR: Actually, I didn't perceive  
16 that internally. It's not quite understanding from my  
17 perception.

18           THE COURT: Other than relatives and friends, are  
19 there people that you admire in the public world?

20           THE PROSPECTIVE JUROR: Well, there's a lot of  
21 people for admiring, like a sportsman.

22           THE COURT: Did you say postman?

23           THE PROSPECTIVE JUROR: Sportsmen.

24           THE COURT: I see. There are specific sports  
25 figures that you admire.

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1 THE PROSPECTIVE JUROR: Basketball, I like  
2 Mr. Michael Jordan.

3 THE COURT: All right. That's a start.  
4 Are there any people you least admire?

5 THE PROSPECTIVE JUROR: Not really.

6 THE COURT: All right. Thank you.  
7 Any other questions for this juror?

8 MR. AGNIFILO: I do not, Judge.

9 MS. PENZA: Your Honor, if you could follow up on  
10 No. 60.

11 THE COURT: Sure.

12 There's a question here: Have you heard of the Me  
13 Too movement.

14 You said: Yes.

15 And then the follow-up is what is your opinion of  
16 the Me Too movement.

17 THE PROSPECTIVE JUROR: Did I say yes?

18 I can't remember, I can't recall.

19 THE COURT: You checked yes.

20 Are you aware of the Me Too movement.

21 THE PROSPECTIVE JUROR: Yes, I know about that.

22 THE COURT: Do you have any opinion about the Me Too  
23 movement?

24 THE PROSPECTIVE JUROR: A lot of people come up with  
25 these issues, but -- what I can say?

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1 THE COURT: Well, whatever you think.

2 THE PROSPECTIVE JUROR: Which is right? I mean, if  
3 they come up with some accusation or problem, they should be  
4 just properly...

5 THE COURT: Properly what?

6 THE PROSPECTIVE JUROR: Like, if somebody come up  
7 with -- say, I have problem with someone, and...

8 I don't know, this is -- I really messed up.

9 THE COURT: Well, no, it's important for us to know  
10 what, if any, views you have about how those accusations  
11 should be handled.

12 How should an accusation of sexual harassment be  
13 handled, in your opinion?

14 THE PROSPECTIVE JUROR: Properly. Step-by-step.

15 THE COURT: And what?

16 THE PROSPECTIVE JUROR: Step-by-step properly.

17 THE COURT: Well, should it be investigated?

18 THE PROSPECTIVE JUROR: Yes.

19 THE COURT: And if it's found to be validated,  
20 should steps be taken beyond that?

21 THE PROSPECTIVE JUROR: Yes.

22 THE COURT: Other questions?

23 MS. PENZA: No, Your Honor.

24 MR. AGNIFILO: Nothing from us.

25 THE COURT: Okay. Thank you for coming in. You

Jury Selection

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1 have a nice day.

2 (Prospective juror exits.)

3 THE COURT: Is there a motion?

4 MR. AGNIFILO: Not from us.

5 MS. PENZA: No, Your Honor.

6 THE COURT: All right. Juror No. 20 is approved.

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8 (Continued on the following page.)

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Prospective Juror No. 22

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1 THE COURT: We are up to Juror Number 22.

2 (Prospective Juror No. 22 enters the courtroom.)

3 THE COURT: Please be seated, ma'am.

4 Good morning.

5 THE PROSPECTIVE JUROR: Good morning.

6 THE COURT: You're Juror No. 22.

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: Okay. Welcome. I just have a few  
9 follow up questions for you.

10 Your employed full time?

11 THE PROSPECTIVE JUROR: Yes.

12 THE COURT: Is it a government agency that you work  
13 for?

14 THE PROSPECTIVE JUROR: I work in a school.

15 THE COURT: In a school? Okay. And you indicated  
16 that you had an injury from an automobile accident?

17 THE PROSPECTIVE JUROR: Yes.

18 THE COURT: And what were the consequences of that?  
19 You indicated something about your ability to retain  
20 information.

21 THE PROSPECTIVE JUROR: Correct. I was -- I was  
22 T-boned. I had -- I was knocked unconscious, I had 13  
23 fractured ribs was and I had, I have short-term memory loss so  
24 I, I find -- I don't know if it's because of age or because of  
25 the accident.

Prospective Juror No. 22

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1 THE COURT: It's not age. You're fine. You're  
2 young.

3 THE PROSPECTIVE JUROR: I have trouble sometimes  
4 processing and retaining information.

5 THE COURT: Can you give me an example?

6 THE PROSPECTIVE JUROR: Give an example?

7 THE COURT: In your work, for instance, at the  
8 school.

9 THE PROSPECTIVE JUROR: Oh, let's say the principal  
10 asks me to do something. I always repeat it to make sure I  
11 completely understand it and am able to process.

12 THE COURT: Is this only since the accident?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: Now, obviously, this is going to be a  
15 six-week trial.

16 THE PROSPECTIVE JUROR: Right.

17 THE COURT: And there will be witnesses who will  
18 testify and there will be documentary evidence that is  
19 provided to the jury as well. Do you think that it would be a  
20 problem for you to absorb and retain information you get  
21 during the trial?

22 THE PROSPECTIVE JUROR: Yes, unless -- I would have  
23 to take notes.

24 THE COURT: Well, you can take notes.

25 THE PROSPECTIVE JUROR: Right, but sometimes the

Prospective Juror No. 22

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1 process -- like, I go back and forth a lot. Like, if I should  
2 tell a story, like, repeating, like, conversation, I'll go  
3 back and forth so it's hard for the person listening to really  
4 follow the story because I'll remember parts that I omitted  
5 prior to, you know, to finishing the story, and I have to go  
6 back and forth so the person listening sometimes can't process  
7 what I'm trying to say because, Well, he said it, oh, let me  
8 go back. So it's hard for me to convey sometimes.

9 THE COURT: Well, let me ask you this then. If you  
10 were on trial for a crime, would you want someone with your  
11 issue to be serving as a juror?

12 THE PROSPECTIVE JUROR: I would say no.

13 THE COURT: And why?

14 THE PROSPECTIVE JUROR: Because the person who's  
15 listening isn't getting the facts all straight. The sequence  
16 of events may not be in the right order.

17 THE COURT: Okay. Any other questions?

18 MS. PENZA: No, Your Honor.

19 MR. AGNIFILO: Nothing.

20 THE COURT: Okay. Thank you very much for coming  
21 in. Have a nice day.

22 THE PROSPECTIVE JUROR: Thank you.

23 (Prospective Juror No. 22 exits the courtroom.)

24 THE COURT: Any motions?

25 MR. AGNIFILO: We ask the that she be excused for

Prospective Juror No. 22

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1 cause, Judge.

2 MS. PENZA: No objection, Your Honor. If I may ask  
3 one question?

4 THE COURT: You can ask as many as you want.

5 MS. PENZA: Thank you. Did Your Honor say the  
6 jurors can or cannot take notes during the trial?

7 THE COURT: They can.

8 MS. PENZA: They can? I'm not sure -- if that is  
9 the case, then I withdraw my consent at this point because I  
10 think she heard you say can't, it was my understanding. I'm  
11 not sure.

12 THE COURT: Well, the problem is I was more  
13 concerned -- I am going to grant the motion because I was more  
14 concerned that she, she misses things and then has to go back  
15 and replay them. You know, I am not sure, unless she's a  
16 stenographer, that she is going to be able to take down what  
17 she needs to have if she feels she needs to have it in her  
18 notes. I am just concerned about it.

19 She seemed like she could be a wonderful juror but  
20 for this, this disability if you want to call it that as a  
21 result of her automobile accident and she was knocked  
22 unconscious in a T-bone accident. So I mean that is a very  
23 traumatic experience and, obviously, you know, she broke a  
24 whole bunch of ribs was so it was a high impact accident. She  
25 is lucky to be here or anybody.

CMH

OCR

RMR

CRR

FCRR

Prospective Juror No. 23

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1 So I am going to grant the motion.

2 MS. PENZA: Thank you, Your Honor.

3 (Prospective Juror No. 22 excused.)

4 THE COURT: Number 23.

5 (Prospective Juror No. 23 enters the courtroom.)

6 THE COURT: Please be seated, sir.

7 Good morning.

8 THE PROSPECTIVE JUROR: Good morning.

9 THE COURT: You are Juror No. 23?

10 THE PROSPECTIVE JUROR: Yes.

11 THE COURT: I just have a couple of questions.

12 Now, you indicated that you worked freelance, in  
13 other words, you work for yourself.

14 THE PROSPECTIVE JUROR: Yes, pretty much.

15 THE COURT: Okay. And this is going to be a  
16 six-week trial. Would a six-week trial be a financial  
17 hardship for you?

18 THE PROSPECTIVE JUROR: No. My schedule is  
19 flexible. I can work on weekends and stuff like that.

20 THE COURT: I see. Okay.

21 Any other questions?

22 MR. AGNIFILO: Nothing from us.

23 MS. PENZA: No, Your Honor.

24 THE COURT: Okay. Thanks for coming in. Have a  
25 good day.

Prospective Juror No. 24

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1 THE PROSPECTIVE JUROR: Thank you.

2 (Prospective Juror No. 23 exits the courtroom.)

3 THE COURT: All right.

4 MR. AGNIFILO: Nothing from us.

5 THE COURT: Nothing? Okay.

6 MS. PENZA: Nothing from the government.

7 THE COURT: Okay. 23 is approved.

8 Juror 34.

9 (Prospective Juror No. 34 enters the courtroom.)

10 THE COURT: Please be seated, sir.

11 Good morning.

12 THE PROSPECTIVE JUROR: Good morning.

13 THE COURT: You are Juror No. 24?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: All right. We just have a few

16 additional questions for you, sir.

17 Are you retired?

18 THE PROSPECTIVE JUROR: Yes, I am.

19 THE COURT: Okay. You indicated that -- there was a

20 question: There may be evidence in this case about abortions.

21 Would hearing about that type of evidence affect your ability

22 to serve as a fair and impartial juror in this case? You

23 answered yes. You say: I do not believe in abortion.

24 THE PROSPECTIVE JUROR: That is correct.

25 THE COURT: Okay. Now, but, of course, abortion,

Prospective Juror No. 24

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1 certain types of abortions are legal under Supreme Court  
2 precedent. Do you think you could, in determining whether the  
3 defendant is guilty or not guilty of specific crimes, that you  
4 could be fair and impartial in considering evidence having to  
5 do with abortions having been undertaken?

6 THE PROSPECTIVE JUROR: I still have my own personal  
7 beliefs and I will, you know, make my own judgments based upon  
8 my own personal beliefs.

9 THE COURT: So, well, if the Court instructs you as  
10 to the law regarding what must be proven in order to convict  
11 the defendant beyond a reasonable doubt, would you follow  
12 those instructions and consider the specific evidence fairly  
13 and impartially?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: Now, there is this question: You may  
16 hear allegations involving immigration and propriety. What  
17 are your beliefs and opinions on the subject of immigration?  
18 Would those opinions impact your ability to be fair and  
19 impartial? Please explain. You answered yes and you said:  
20 Against illegal immigration of any kind.

21 THE PROSPECTIVE JUROR: Uh-huh.

22 THE COURT: So you are against illegal immigration?

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: And if evidence were presented about  
25 illegal immigration, would you be able to assess the validity

Prospective Juror No. 24

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1 of that evidence fairly and impartially?

2 THE PROSPECTIVE JUROR: I believe so.

3 THE COURT: Okay. Oh, I like this one. I got to  
4 the one I like.

5 THE PROSPECTIVE JUROR: I think I know.

6 THE COURT: The judge presiding over this case is  
7 the Honorable Nicholas G. Garaufis. Do you or does any  
8 relative or friend know or have any connection with  
9 Judge Garaufis? And you said: Yes, Judge Garaufis did legal  
10 work for my father.

11 THE PROSPECTIVE JUROR: Uh-huh, many years ago.

12 THE COURT: Many years ago? It had to be.

13 THE PROSPECTIVE JUROR: Early 80s maybe.

14 THE COURT: Early 80s? That's when it was. That's  
15 when I was in private practice.

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: Do you think that would affect your  
18 ability to be fair and impartial that I once did legal work  
19 for your father?

20 THE PROSPECTIVE JUROR: No.

21 THE COURT: I won't ask you what he said about me.  
22 Do you think it would create any kind of problem?

23 THE PROSPECTIVE JUROR: No.

24 THE COURT: But you remember?

25 THE PROSPECTIVE JUROR: A little bit of it, yes.



Prospective Juror No. 24

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1 THE COURT: Was it civil?

2 THE PROSPECTIVE JUROR: It was civil, yes.

3 THE COURT: Okay. Now, you also indicated that you  
4 had read about this case in the newspaper, in the New York  
5 Post.

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: Was that before we, the original --

8 THE PROSPECTIVE JUROR: Before.

9 THE COURT: When you filled out the questionnaire?

10 THE PROSPECTIVE JUROR: Yes, before. I read quite a  
11 bit.

12 THE COURT: What's that?

13 THE PROSPECTIVE JUROR: I read quite a bit, a number  
14 of articles about this case.

15 THE COURT: So that's a newspaper that you read?

16 THE PROSPECTIVE JUROR: New York Post.

17 THE COURT: Yes.

18 THE PROSPECTIVE JUROR: Daily News.

19 THE COURT: Oh, you read both?

20 THE PROSPECTIVE JUROR: Uh-huh.

21 THE COURT: So my question is would you be able to  
22 put aside what was in the newspaper and just consider evidence  
23 that is presented here in court in considering whether the  
24 defendant is guilty or not guilty of the crimes that are  
25 charged?

CMH

OCR

RMR

CRR

FCRR

Prospective Juror No. 24

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1 THE PROSPECTIVE JUROR: I believe I could.

2 THE COURT: What kind of, not specifically, but what  
3 kind of newspaper accounts do you recall?

4 THE PROSPECTIVE JUROR: The accounts about the -- of  
5 a cult, about the rather rich Bronfman family funding the  
6 cult.

7 THE COURT: Okay.

8 Were there other questions?

9 MR. AGNIFILO: Your Honor, I propose follow-up to  
10 question 38.

11 THE COURT: Okay. Well, let me ask you in terms of  
12 the issue, the issue of abortion, if evidence is presented  
13 strictly about an individual having a legal abortion without  
14 any, where the individual did it of her own volition, would  
15 that cause you to have a bias against the defendant?

16 THE PROSPECTIVE JUROR: It may, yes. Yes.

17 THE COURT: And why would that be the case?

18 THE PROSPECTIVE JUROR: I don't think laws should be  
19 taken as far as abortions are concerned. It should just be  
20 just strictly for medical reasons.

21 THE COURT: I'll take it one step further. Let's  
22 say someone has a consensual relationship with a woman and the  
23 woman becomes pregnant and through their discussions, on the  
24 recommendation -- this is hypothetical because I don't know  
25 the exact facts that would be adduced in this case -- and the

Sidebar

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1 woman and the man have a conversation and the man says, Well,  
2 you know, I think you ought to have an abortion, and the woman  
3 says, I think so too, and then obtains a legal abortion, in  
4 terms of the charges in this case, if man is accused of a  
5 crime where, not having to do specifically with any kind of  
6 forced activity, that this was all consensual, would you hold  
7 it against or be biased the against the man for recommending  
8 that the woman have an abortion?

9 THE PROSPECTIVE JUROR: Concerning other charges?

10 THE COURT: Concerning other charges.

11 THE PROSPECTIVE JUROR: No. No.

12 MR. AGNIFILO: Can we approach for a second?

13 THE COURT: Sure.

14 (The following occurred at sidebar.)

15 MR. AGNIFILO: The press can come up, right?

16 THE COURT: Okay. Yes, she can come up.

17 Okay. Yes.

18 MR. AGNIFILO: I think, I think a fair read of what  
19 the government's evidence is going to be is that --

20 THE COURT: That would be nice to know.

21 MR. AGNIFILO: Is that Raniere compelled, forced,  
22 suggested -- no?

23 MS. PENZA: No.

24 MR. AGNIFILO: Well, there are a lot of abortions in  
25 the case. It's not just one. There's dozens. I mean,

Prospective Juror No. 24

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1 there's over --

2 THE COURT: Okay. I hear you. Do you have an  
3 objection to excusing this juror?

4 MS. PENZA: We do.

5 THE COURT: You have an objection?

6 MS. PENZA: We do not believe he should be excused  
7 for cause.

8 THE COURT: So why should he be excused?

9 MR. AGNIFILO: Because I think the view is going to  
10 be is that Ranieri, as part and parcel of his desire to have  
11 lots of sex with lots of women, used abortions at a minimum  
12 cavalierly and maybe even worse than that. So it's not as  
13 passive --

14 THE COURT: Well, the "worse than that" is the  
15 problem.

16 MS. PENZA: This is not a case about abortion, Your  
17 Honor. We have -- we have witnesses who have had abortions.  
18 It is of concern to us too to make sure that people can set  
19 aside their views on abortion but we believe that he said that  
20 he can.

21 THE COURT: Okay. I hear all of you. Thank you.

22 (In open court; sidebar ends.)

23 THE COURT: Let me ask this question. If a witness  
24 were to testify and indicate that she had an abortion, would  
25 you be less likely to believe her testimony or to credit her

Prospective Juror No. 24

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1 on other issues because she had an abortion?

2 THE PROSPECTIVE JUROR: No.

3 THE COURT: Anything else?

4 MR. AGNIFILO: Judge, I think the number --

5 THE COURT: All right.

6 Well, there may be a discussion in this case of a  
7 number of abortions that were had by individuals and the  
8 circumstances, I don't know, that might come out in the trial,  
9 but the mere fact that a number of woman had abortions after  
10 having sexual relations with the defendant, would that mere  
11 fact create a bias on your part against the defendant?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: By the mere fact that these women had  
14 abortions?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: That would create a problem?

17 THE PROSPECTIVE JUROR: It would.

18 THE COURT: Okay. Thank you very much. You have a  
19 nice day, sir.

20 THE PROSPECTIVE JUROR: Thank you.

21 (Prospective Juror No. 24 exits the courtroom.)

22 THE COURT: I will hear the motion.

23 MR. AGNIFILO: We ask that he be excused for cause.

24 THE COURT: For? For? For?

25 MR. AGNIFILO: Because he said in response to

Prospective Juror No. 24

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1 Your Honor's last question that he would have a bias against  
2 the defendant if there were multiple women who had abortions  
3 following having sex with the defendant which is exactly what  
4 the trial evidence is going to be.

5 MS. PENZA: Your Honor, the government believes that  
6 the defendant said repeatedly that he could be fair and  
7 impartial -- excuse me -- that the juror said he could be fair  
8 and impartial, that he could set aside the evidence. That  
9 question at the end was not followed up with could you set  
10 aside that bias. Obviously, jurors come in with biases of all  
11 sorts. He said he had a bias but the question is could he set  
12 it aside and follow Your Honor's instructions.

13 THE COURT: Thank you.

14 I think the difference with this juror is that  
15 throughout his voir dire, it was clear that this was a  
16 subject, abortion, that was extremely important to him and  
17 that I believe it might overwhelm his efforts to be fair and  
18 impartial. So, you know, there are people who come in who  
19 oppose abortion who will be perfectly fine for this case, but  
20 I think he does not qualify in that category.

21 The motion is granted.

22 MR. AGNIFILO: Thank you.

23 (Prospective Juror No. 24 excused.)  
24  
25

Prospective Juror No. 26

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1 THE COURT: Juror 26.

2

3 (Prospective Juror No. 26 enters the courtroom.)

4 THE COURT: Please be seated, sir.

5 Good morning.

6 THE PROSPECTIVE JUROR: Good morning.

7 THE COURT: You are Juror No. 26?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: Okay. Welcome. I just have a follow-up  
10 question.

11 You were asked other than friends and relatives,  
12 please list three people you least admire and why. So you  
13 said family, brother, sister, nieces, because they were too  
14 much problems and drama. So what did you mean by problems and  
15 drama?

16 THE PROSPECTIVE JUROR: It's like a situation that,  
17 you know -- it all started between, with me and my sister and  
18 basically, you know, with what they've been putting me  
19 through, you know, after, like, my mother passed away --

20 THE COURT: I'm sorry.

21 THE PROSPECTIVE JUROR: -- a few years ago. So it's  
22 like -- it was something I got from my mother when she passed  
23 away which is, like, being a beneficiary and be eligible for  
24 the pension. So she got, like, jealous and everything and  
25 then, you know, then, you know -- I live on my own. I took

Prospective Juror No. 29

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1 over the apartment and she was begging me for her daughter who  
2 is my niece to stay in the apartment. So, you know --

3 THE COURT: I see. Okay.

4 THE PROSPECTIVE JUROR: I dealt with that for, you  
5 know --

6 THE COURT: That's taken care of?

7 THE PROSPECTIVE JUROR: Yes. I'm back living on my  
8 own right now so they're no longer there.

9 THE COURT: Okay. Thank you.

10 Anything else?

11 MR. AGNIFILO: Nothing from us.

12 MS. PENZA: No, Your Honor.

13 THE COURT: All right. Thank you very much. Have a  
14 nice day, sir.

15 THE PROSPECTIVE JUROR: You too, Your Honor.

16 Everybody, the same thing.

17 THE COURT: Thank you.

18 (Prospective Juror No. 26 exits the courtroom.)

19 THE COURT: Any motions?

20 MR. AGNIFILO: Nothing from us, Your Honor.

21 MS. PENZA: No, Your Honor.

22 THE COURT: Okay. 26 is approved.

23 Juror No. 29.

24 (Prospective Juror No. 29 enters the courtroom.)

25 THE COURT: Please be seated, sir.



Prospective Juror No. 29

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1 Good morning.

2 THE PROSPECTIVE JUROR: Good morning.

3 THE COURT: You are Juror No. 29.

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Please keep your voice up, okay?

6 THE PROSPECTIVE JUROR: Okay.

7 THE COURT: Thank you. I just have a follow-up  
8 question here.

9 There was a question. I'm going to read it to you.  
10 Do you have any opinions or beliefs concerning law enforcement  
11 in general including the FBI, the Internal Revenue Service,  
12 the New York City Police Department, the Department of  
13 Homeland Security, the New York State Police and the  
14 Department of Justice that would make it difficult for you to  
15 evaluate evidence fairly and impartially in accordance with  
16 the Court's instructions? Your answer was yes and then you  
17 put in an explanation: Profiling.

18 Can you be more expansive about what your issue is  
19 regarding profiling?

20 THE PROSPECTIVE JUROR: I, I think I've been subject  
21 to that many times.

22 THE COURT: I see.

23 THE PROSPECTIVE JUROR: And it's difficult for me to  
24 understand how people pick their case of who to prosecute.

25 THE COURT: Just speak up more into the microphone.

Prospective Juror No. 29

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1 That would help.

2 THE PROSPECTIVE JUROR: Yes.

3 THE COURT: Thank you.

4 THE PROSPECTIVE JUROR: I said for having been a  
5 victim of that many times and it's always difficult for me to  
6 understand how people, how they pick who to go after, who to  
7 prosecute for probably the same reason.

8 THE COURT: All right. Well, the reason that that  
9 question is there is because there will be some law  
10 enforcement officials who testify at this trial and let me ask  
11 you this. Do you think you would be able to fairly and  
12 impartially evaluate the testimony of law enforcement  
13 officials along with everybody else who testifies in order to  
14 decide whether or how much to believe one of those law  
15 enforcement officials?

16 THE PROSPECTIVE JUROR: Honestly, I'm not sure.

17 THE COURT: Okay. And why is that?

18 THE PROSPECTIVE JUROR: Because I have it in me to  
19 be reserve, to have doubt and reservation.

20 THE COURT: About? Reservations about what?

21 THE PROSPECTIVE JUROR: About their reason to do  
22 anything.

23 THE COURT: How many times have you been stopped?

24 THE PROSPECTIVE JUROR: At least five times.

25 THE COURT: Without good reason, in your opinion?

CMH

OCR

RMR

CRR

FCRR

Prospective Juror No. 29

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1 THE PROSPECTIVE JUROR: Well, the reasons are  
2 usually a little -- I'm going to give you a quick example.

3 THE COURT: Sure, do so.

4 THE PROSPECTIVE JUROR: I take the subway every day  
5 to work and not too long ago, same station, same thing, every  
6 time, for at least 15 years, same route, and a lot of people  
7 standing on the platform waiting. Then I was a little bit --  
8 it was cold that winter and I'm a little bit anxious to go  
9 home and, you know, I'm looking forward to see if the train is  
10 coming.

11 THE COURT: Bad habit.

12 THE PROSPECTIVE JUROR: And I stepped forward when  
13 there's a yellow line but almost everybody is doing it. I put  
14 a foot in front of the yellow line to look for, to see if the  
15 train is coming. Before I know it, there were two guys coming  
16 to me and they chose that to call me aside, questioning me for  
17 one hour just looking for things, like maybe they would find  
18 drugs on me, if I ever been arrested, and they wouldn't even  
19 be, give me a chance to go to the restroom because the reason  
20 I was looking, because it's cold, I want to go home, you now,  
21 it's after a long day of work, and they took everything that I  
22 had in my backpack on --

23 THE COURT: On the ground?

24 THE PROSPECTIVE JUROR: -- on the table. It was  
25 kind of a bench table on a subway and looking. And this guy

Prospective Juror No. 31

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1 was telling me that, well, like, he's surprised that, that I'm  
2 lying to him he was going to arrest me because I said that  
3 I've never been arrested. He said it's impossible that a  
4 black man living in New York City for that long have never  
5 been arrested.

6 THE COURT: Okay. Thank you.

7 Any other questions for the juror?

8 MR. AGNIFILO: No.

9 MS. PENZA: No, Your Honor.

10 THE COURT: Thank you very much for coming in, sir,  
11 and doing your civic duty. I appreciate it.

12 (Prospective Juror No. 29 exits the courtroom.)

13 MS. PENZA: The government moves to strike Juror  
14 No. 29 for cause given his statements that he would be biased  
15 against law enforcement witnesses.

16 MR. AGNIFILO: We agree.

17 THE COURT: Yes. Well, that's a terrible story.  
18 He's a technician for Verizon.

19 (Prospective Juror No. 29 excused.)

20 THE COURT: We are up to 31.

21 (Prospective Juror No. 31 enters the courtroom.)

22 THE COURT: Please be seated. Welcome.

23 THE PROSPECTIVE JUROR: Thank you.

24 THE COURT: You are Juror No. 31?

25 THE PROSPECTIVE JUROR: Correct.

Prospective Juror No. 31

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1 THE COURT: Okay. First, let me ask you, you are  
2 employed full time, are you not?

3 THE PROSPECTIVE JUROR: Correct.

4 THE COURT: And will your employer be paying you for  
5 your entire service?

6 THE PROSPECTIVE JUROR: They will.

7 THE COURT: Okay. Thank you.

8 Now, you indicated that -- there's this question:  
9 Have you or anyone close to you ever participated in any  
10 self-help programs or read any self-help books? You answered  
11 yes and you indicated the programs: The books, the secret,  
12 the happiness project.

13 THE PROSPECTIVE JUROR: Uh-huh.

14 THE COURT: You have to answer "yes" or "no."

15 THE PROSPECTIVE JUROR: Yes. Sorry.

16 THE COURT: Okay. Thank you.

17 Okay. And if yes as to you, what did you hope to  
18 get out of the experience? And you said: Self-improvement,  
19 increase happiness, increase productivity.

20 And was it successful?

21 THE PROSPECTIVE JUROR: Yes. I think it, you know,  
22 just makes you think a little bit more about yourself.

23 (Continued on next page.)  
24  
25

Prospective Juror No. 31

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1 (Continuing.)

2 THE COURT: There is a question, "Would you be able  
3 to listen and discuss matters of a sexual nature with your  
4 fellow jurors?" And you said, "Yes, I think. It's something  
5 that I never discussed with strangers so I can't be sure." Is  
6 that your view on it?

7 PROSPECTIVE JUROR: I think that's accurate. I'm  
8 not sure being in a situation with strangers and having those  
9 conversation since I've never done it, so --

10 THE COURT: But for many jurors --

11 PROSPECTIVE JUROR: So -- but we'll all be in the  
12 same boat.

13 THE COURT: You will be in the same boat. There may  
14 be evidence in this case about fraternities, sororities,  
15 secret societies, rituals or cults. Would hearing about that  
16 type of evidence affect your ability to serve as a fair and  
17 impartial juror in this case?

18 PROSPECTIVE JUROR: No.

19 THE COURT: "Under the law, emotions such as  
20 sympathy, bias and prejudice must not enter into the  
21 deliberations of the jurors as to whether the guilt of the  
22 defendant has been proven beyond a reasonable doubt. Would  
23 you have difficulty following this rule?" You said "Yes" and  
24 explained, "I can be an emotional and/or sympathetic person."

25 PROSPECTIVE JUROR: I think that's a fair assessment

Prospective Juror No. 31

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1 of myself, yes.

2 THE COURT: Well, if there is testimony that you  
3 must consider from witnesses and also evidence, documentary  
4 evidence that you must consider, do you think that you would  
5 be able to narrowly and reasonably and thoughtfully deal with  
6 that evidence in this case, even though you are sometimes  
7 emotional --

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: --- and you can be sympathetic to  
10 people's conditions or problems?

11 PROSPECTIVE JUROR: Yes, but I think I could still  
12 be impartial as it came to, you know, the purpose of the case.

13 THE COURT: So you think you could do that?

14 PROSPECTIVE JUROR: Correct.

15 THE COURT: Have you ever been a juror before?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: I am sorry, was that in a civil or  
18 criminal case? Don't tell me what it was about, just was it  
19 civil or criminal.

20 PROSPECTIVE JUROR: It was a criminal.

21 THE COURT: Did the jury reach a verdict? Don't  
22 tell me what the verdict was.

23 PROSPECTIVE JUROR: Yes, we did reach a verdict.

24 THE COURT: Any questions?

25 MR. AGNIFILO: Follow up on question 51, Your Honor?

Prospective Juror No. 31

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1 THE COURT: Sure. The question was, "Have you or  
2 anyone close to you been the victim of incest, child  
3 molestation or child abuse?" And you answered, "Yes." You  
4 said, "Both my mother and grandmother maternal were both  
5 victims of child molestation; is that right?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: How did you learn of this?

8 PROSPECTIVE JUROR: As I got older it was something  
9 at first I found out about my grandmother because it was a  
10 family incident. As I got older, just sort of having  
11 conversations, it was something that sort of came up.

12 THE COURT: And was this a family member who engaged  
13 in the abuse?

14 PROSPECTIVE JUROR: With my grandmother, yes.

15 THE COURT: Now, the fact that you learned of this,  
16 would that have any influence on whether you would be able to  
17 be fair and impartial in considering evidence in this case  
18 which will include evidence of or it is it's alleged that  
19 there will be evidence of child molestation in this case?

20 PROSPECTIVE JUROR: I think that might be difficult  
21 for me.

22 THE COURT: Do you think you could put aside the  
23 emotional aspects of this and simply consider the evidence  
24 knowing that and do so fairly and impartially, knowing that  
25 the evidence that you are considering could be used for the



Prospective Juror No. 31

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1 purpose of deciding whether someone is guilty or not guilty of  
2 a crime?

3 PROSPECTIVE JUROR: I think I could stay impartial  
4 to that. I mean, I think just sort of thinking about it, it  
5 automatically makes me emotional thinking about my family, but  
6 I think listening to evidence for both sides you take into  
7 consideration what is presented and make an assessment on  
8 that.

9 THE COURT: Other questions?

10 MR. AGNIFILO: I have nothing else.

11 MS. PENZA: No, Your Honor.

12 THE COURT: Thank you very much for coming in, have  
13 a nice day.

14 PROSPECTIVE JUROR: Thank you.

15 (Prospective juror exits.)

16 THE COURT: Any motions?

17 MR. AGNIFILO: No. I think she's going to try to be  
18 fair.

19 MS. PENZA: No, Judge.

20 THE COURT: All right. Juror No. 31 is approved.

21 (Prospective juror enters.)

22 THE COURT: Mr. Reccoppa tells me you have a  
23 vacation planned?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: When is your vacation planned?

Prospective Juror No. 31

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1 PROSPECTIVE JUROR: We depart the 25th of June.

2 THE COURT: We expect to be done by then.

3 PROSPECTIVE JUROR: Okay, I thought I would mention  
4 it.

5 THE COURT: No, it is very important that you do but  
6 we expect it to be a six-week trial ending in the middle of  
7 June?

8 PROSPECTIVE JUROR: I wanted to put that out there.

9 THE COURT: Thank you very much, appreciate it.

10 (Prospective juror exits.)

11 THE COURT: All right. Juror No. 31 is qualified.

12 MS. PENZA: Your Honor, I'm sorry, I know we were  
13 asked how long we estimated the case to be. We do estimate  
14 six weeks and we have had conversations where we think it is  
15 an accurate estimate, but if the defense puts on a longer case  
16 than we are anticipating, it could go longer than that.

17 THE COURT: It could go less long depending on how  
18 quickly we move.

19 MS. PENZA: And the Government has tried very hard  
20 to streamline the case so this is our best expectation.

21 MR. AGNIFILO: We're going to try to streamline the  
22 case, too, on both sides.

23 THE COURT: Well, let's see how we do. We're going  
24 to have 12 jurors and six alternate jurors. So, we are  
25 building in some protection here for the trial. I know

Prospective Juror No. 32

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1 everyone will try hard. All of these -- the 20 people who  
2 were here this morning were here right on time if that's any  
3 indication, we will have plenty of cooperation from the jury  
4 getting started in the morning. Thank you for letting me  
5 know.

6 Okay. We are up to 32.

7 (Prospective juror enters.)

8 THE COURT: Please be seated, ma'am. You are Juror  
9 No. 32. Welcome?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: I just have a few questions to follow on  
12 to your answers. There's a question here, "Have you or anyone  
13 close to you ever participated in a Landmark forum, EST or  
14 anything you view as similar?" You answered, "Yes." And then  
15 you said, "I believe a friend participated in Landmark. I  
16 think her experience was good." Right?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Now, do you know anything about  
19 Landmark?

20 PROSPECTIVE JUROR: I was confused so I am thinking  
21 that it was a self-help type of experience.

22 THE COURT: And she had a good experience?

23 PROSPECTIVE JUROR: From what she told me.

24 THE COURT: Did you discuss it a great deal or just  
25 in passing?

Prospective Juror No. 32

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1 PROSPECTIVE JUROR: No, a great deal.

2 THE COURT: And what was your understanding of what  
3 it was that she experienced?

4 PROSPECTIVE JUROR: You go through different  
5 experiences, different workshops. You talk about self. I  
6 went through something similar too.

7 THE COURT: You did?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: What was that?

10 PROSPECTIVE JUROR: I went through something that's  
11 called Momentum and there was something I went through before  
12 and I don't think it was Landmark but it was something  
13 similar.

14 THE COURT: I see. Was it a good experience?

15 PROSPECTIVE JUROR: It was okay.

16 THE COURT: It was okay?

17 PROSPECTIVE JUROR: Yeah.

18 THE COURT: How long ago was that?

19 PROSPECTIVE JUROR: About two years ago.

20 THE COURT: Okay. You indicated that you were a  
21 juror in two state criminal trials for robbery and that the  
22 jury reached a verdict, just yes or no; is that right?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: And is there anything about your  
25 experience serving on a jury in prior trials that concerned

Prospective Juror No. 32

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1 you, that was negative?

2 PROSPECTIVE JUROR: Well I am always anxious about  
3 it, but there was one case that I was -- I wasn't actually on  
4 the jury, I was an alternate, and from what I remember I  
5 believe it was a murder.

6 THE COURT: A murder?

7 PROSPECTIVE JUROR: I believe so.

8 THE COURT: All right.

9 PROSPECTIVE JUROR: What was crazy about it, I  
10 wasn't there any longer --

11 THE COURT: What was crazy about it?

12 PROSPECTIVE JUROR: I attend church in Brooklyn and  
13 there were members of -- I don't remember if it was the victim  
14 or the defendant that was in the church that I saw one Sunday.  
15 I don't know if they were a member at the time, but because  
16 they were in the court I was able to recognize them in the  
17 church, so the next time I went to court I informed them and  
18 so they dismissed me.

19 THE COURT: I see.

20 Any other questions?

21 MR. AGNIFILO: Nothing.

22 MS. PENZA: No, Your Honor.

23 THE COURT: Okay, thank you for coming in.

24 PROSPECTIVE JUROR: I have to mention something.

25 THE COURT: Of course?

Prospective Juror No. 32

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1 PROSPECTIVE JUROR: I may have to go to a funeral  
2 this week. The arrangements have not been finalized so I  
3 don't know what time.

4 THE COURT: Well, this trial will begin on May 7th.

5 MS. PENZA: I did want to ask a follow-up on 67 if  
6 that's okay.

7 THE COURT: So we have one more question.

8 PROSPECTIVE JUROR: Okay.

9 THE COURT: There is a question, "Have you or has a  
10 family member or close friend ever been involved in or been  
11 the target of a criminal investigation?" And you answered,  
12 "Yes." And you said, "I don't know the circumstances and the  
13 person was my godson." You also said that your godson was  
14 accused of drug crimes, there was no allegation of sex-related  
15 offense; is that right?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Was he convicted of any of these crimes?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: After a trial?

20 PROSPECTIVE JUROR: I don't know.

21 THE COURT: Do you think he was treated fairly by  
22 law enforcement?

23 PROSPECTIVE JUROR: I wasn't there so I don't know.

24 THE COURT: Okay. Thank you very much. Have a nice  
25 day.

Prospective Juror No. 65

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1 (Prospective juror exits.)

2 THE COURT: Is there a motion?

3 MR. AGNIFILO: Not from us.

4 MS. PENZA: No, Your Honor.

5 THE COURT: All right. Juror No. 32 is approved.

6 (Prospective juror exits.)

7 THE COURT: Juror No. 65.

8 (Prospective juror enters.)

9 THE COURT: Please be seated, sir. Good morning.

10 PROSPECTIVE JUROR: Good morning.

11 THE COURT: How are you? You are Juror No. 65?

12 PROSPECTIVE JUROR: I am.

13 THE COURT: You indicated that you have had several  
14 surgeries. And do you think that you would have difficulty  
15 with jury service based upon your current condition?

16 PROSPECTIVE JUROR: What I indicated on the  
17 questionnaire was depending on how long I have to sit without  
18 access to a restroom.

19 THE COURT: Well, let me explain the basic rule. We  
20 start at around 9:30. We take a break midway through the  
21 morning and then we have a lunch break and a mid-afternoon  
22 break, but if someone needs to use the restroom we stop and  
23 the person can use the restroom. The rest of us can just sit  
24 here.

25 PROSPECTIVE JUROR: Then that wouldn't be a problem

Prospective Juror No. 65

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1 for me.

2 THE COURT: All right. There is a question, "The  
3 Government has the burden of proof to prove those allegations  
4 beyond a reasonable doubt. Are you willing to accept and  
5 comply with this legal requirement in a case involving  
6 allegations of child pornography and child sexual  
7 exploitation?" And you answered, "Not sure. Feel very strong  
8 about the vileness of this and the legal requirement sometimes  
9 falls short of guilty."

10 What did you mean by that?

11 PROSPECTIVE JUROR: I'm trying to recall my answer.

12 THE COURT: Do you want me to read it again?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Of course. "Not sure. Feel very strong  
15 about the vileness of this and the legal requirement sometimes  
16 falls short of guilty."

17 PROSPECTIVE JUROR: What I meant is that sometimes  
18 it seem from my perspective the law, it's not -- there's  
19 shades of gray, sometimes, of what happens in life. So what I  
20 was trying to articulate there was that it's not always  
21 clear-cut and it can be challenging to see through to the  
22 truth.

23 THE COURT: And, so -- and, so would you follow the  
24 court's instructions regarding the evaluation of evidence in  
25 order to determine whether the defendant has been found guilty



Prospective Juror No. 65

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1 of a crime beyond a reasonable doubt?

2 PROSPECTIVE JUROR: Yes, absolutely.

3 THE COURT: Now, there's another question here,  
4 "Would you be inclined to believe a witness is more or less  
5 truthful solely because that witness is a law enforcement  
6 officer?" And you say, "I initially would probably be  
7 inclined to believe an officer of law unless there was other  
8 factors to support not to."

9 If the Court advises you that law enforcement  
10 officers are to be evaluated the same way you would evaluate  
11 any other witness in determining whether you believe them, how  
12 much you believe them and so forth, would you follow the  
13 Court's instructions to consider all witnesses based on their  
14 testimony here in the same manner?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: And then there's another question,  
17 "Under the law, emotions such as sympathy, bias and prejudice  
18 must not enter into the deliberations of the jurors as to  
19 whether the guilt of the defendant has been proven beyond a  
20 reasonable doubt. Would you have any difficulty following  
21 this rule? You checked off "yes" and "no" and then you said,  
22 "Again, hard to say."

23 PROSPECTIVE JUROR: What I meant by that was, I  
24 mean, you have to follow the facts but in real life a lot of  
25 decisions that are made come from their emotions but

Prospective Juror No. 69

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1 understanding that -- so that's where the conflict could  
2 occur, I guess. We are drawing between on your left and right  
3 brain thinking and so that is what I meant by sometimes that's  
4 a difficult process for a person to go through.

5 THE COURT: Would you try to follow the Court's  
6 instruction that you rationally, thoughtfully consider the  
7 testimony that's before you when determining the outcome of  
8 your deliberations?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Other questions?

11 MR. AGNIFILO: Nothing from us.

12 MS. PENZA: No, Your Honor.

13 THE COURT: I want to thank you for coming in, sir.  
14 Have a nice day.

15 MR. AGNIFILO: Thank you.

16 (Prospective juror exits.)

17 THE COURT: Is there a motion?

18 MR. AGNIFILO: Nothing from us.

19 MS. PENZA: No, Your Honor.

20 THE COURT: All right. Juror 65 is approved.  
21 69.

22 (Prospective juror enters.)

23 THE COURT: Please be seated, sir. Good afternoon,  
24 sir.

25 PROSPECTIVE JUROR: Good afternoon.

Prospective Juror No. 69

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1 THE COURT: You are Juror No. 69; correct?

2 PROSPECTIVE JUROR: Correct.

3 THE COURT: So you are employed full-time?

4 PROSPECTIVE JUROR: Correct.

5 THE COURT: And you work evenings, is that right?

6 PROSPECTIVE JUROR: The schedule changes, Your  
7 Honor, day and evening.

8 THE COURT: Now this trial is only taking place  
9 during the day.

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Would you be able to adjust your  
12 schedule so that you would be able to be here for the six  
13 weeks of the trial?

14 PROSPECTIVE JUROR: The evening schedule starts  
15 around 4:30 in midtown Manhattan. I have to talk to my  
16 employer about that if they allow lateness.

17 THE COURT: Okay. There will be a schedule for the  
18 trial and you will get it in advance so you know what days we  
19 have trial. The trial will last six weeks, mainly four days a  
20 week. Do you work weekends in your job?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: We don't work weekends. I do not work  
23 weekends. They work weekends. So let me ask you some  
24 follow-up questions about your responses. There's a question  
25 that reads, "There may be evidence in this case about people

Prospective Juror No. 69

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1 engaging in relationships with multiple sexual partners.  
2 Would hearing about that type of evidence affect your ability  
3 to serve as a fair and impartial juror in this case?" You  
4 answered, "Yes" and then you said, "I don't believe in  
5 polygamy."

6 Polygamy, the definition of it is, I think, that you  
7 are married to more than one person. This is sexual partners.  
8 This isn't about being married to anybody. This is about  
9 having various sexual partners. What is your view on people  
10 having numerous sexual partners at the same time through the  
11 same period of your life?

12 PROSPECTIVE JUROR: I disagree with it. I don't --  
13 like, the way, I guess I'm not -- like I grew up in Asia where  
14 it's kind of, like, taboo to have, you know, like when you  
15 have -- before you're married you have multiple girlfriends at  
16 the same time, people kind of like -- it's taboo, people look  
17 down at them.

18 THE COURT: Have sex with them?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Do you think that if there is evidence  
21 that the defendant had multiple sexual partners that you would  
22 be -- that that would create a problem for you in being fair  
23 and impartial?

24 PROSPECTIVE JUROR: No. I mean having been exposed  
25 to American culture I guess it's kind of like -- almost like

Prospective Juror No. 69

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1 normal, like. I don't think it would cloud my judgment.

2 THE COURT: Okay. There is another question here,  
3 "There may be evidence in this case about abortions. Would  
4 hearing about that type of evidence affect your ability to  
5 serves as a fair and impartial juror in this case? You said,  
6 "Yes. Abortions are wrong. There are so many people in the  
7 world who like to have a child, but are unable to. I am sure  
8 if you don't want to have your baby, somebody else would like  
9 to adopt. Abortions are the same as killing." Is that your  
10 view?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: If there is evidence about legal  
13 abortions, let's say this, that people testify about legal  
14 abortions that were had by the sexual partners of the  
15 defendant, would you have difficulty in being fair and  
16 impartial in considering the evidence against the defendant  
17 based on that?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Why?

20 PROSPECTIVE JUROR: Because even though it's legal  
21 like I feel it's like a law by human, but it's still wrong to  
22 have, like, a baby aborted.

23 THE COURT: The charges in this case involve  
24 allegations of, among other things, sex trafficking, forced  
25 labor, child pornography and child exploitation. Is there

Prospective Juror No. 69

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1 anything about the nature of these allegations that would make  
2 it difficult for you to be fair and impartial? You answered  
3 "Yes" and explained, "I have a four-year old daughter. I  
4 can't imagine what I would do if someone tries to exploit  
5 her."

6 So if you are provided evidence of sexual  
7 exploitation of a child, would that make it difficult for you  
8 to consider whether the defendant is actually guilty beyond a  
9 reasonable doubt of that charge?

10 PROSPECTIVE JUROR: Can you repeat the question?

11 THE COURT: Let me put it to you this way: Would  
12 you be fair and impartial in considering the actual evidence  
13 regarding sexual exploitation of a child before reaching any  
14 conclusion as to whether the defendant is actually guilty of  
15 that charge?

16 PROSPECTIVE JUROR: Yes, I can put my personal  
17 feelings aside and just base on the evidence.

18 THE COURT: Other questions?

19 MR. AGNIFILO: No, Your Honor.

20 MS. PENZA: No, Your Honor.

21 THE COURT: Okay. Thank you for coming in, sir.  
22 Have a nice day.

23 PROSPECTIVE JUROR: Thank you.

24 (Prospective juror exits.)

25 THE COURT: Is there a motion?

Prospective Juror No. 69

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1 MR. AGNIFILO: There is from us, Judge.

2 THE COURT: What is the motion?

3 MR. AGNIFILO: Related to the abortions question,  
4 Your Honor asked the potential juror squarely if the Court  
5 were to give instructions on certain subjects and the law  
6 allowed these to be legal abortions, and the juror gave his  
7 honest view, which is it's just a law made by man suggesting  
8 he's going to abide by a different set of principles, which is  
9 his right, but I don't know that it makes him appropriate for  
10 this case.

11 MS. PENZA: Your Honor, the Government objection to  
12 the juror be stricken for cause. I think that he had said he  
13 will follow instructions and be fair and impartial. This is  
14 not a case about abortion so the question is not was this  
15 abortion legal or not. And so I think that given all of his  
16 other answers and his repeated statements that he will be fair  
17 and impartial that he should not be stricken for cause.

18 MR. AGNIFILO: Just to put a point on that he said  
19 he could be fair and impartial with regard to the charges. My  
20 concern is that the abortion evidence and the reason it's in  
21 the questionnaire is it's a very incendiary topic and it's  
22 going -- if the Government's motion is granted, it will be  
23 part of the trial evidence and it's not going to be one or  
24 two. It's going to be multiple abortions in the context of a  
25 sex trafficking conspiracy. So the abortions are linked into

Prospective Juror No. 71

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1 the charge otherwise the Government wouldn't seek to admit  
2 them and my concern is that he gave a very honest answer. He  
3 said certain things in his culture are taboo. He's bringing  
4 his culture -- which he should, but I don't think it makes him  
5 the right juror for this case given some of the evidence that  
6 the Government was to elicit.

7 MS. PENZA: Your Honor, the defendant said he lives  
8 in America. He's been exposed to American culture and he said  
9 repeatedly he will be fair to the charges that were presented  
10 here.

11 THE COURT: He didn't sound enthusiastic about it,  
12 but I don't know enthusiasm is what we're dealing with here.  
13 This is a very unusual case. I am going to grant the motion  
14 because I believe that in his earnest responses, he was  
15 struggling with this issue about abortion and whether he could  
16 actually put aside strongly held cultural views about the  
17 issue. And I think it would be inappropriate to put him in  
18 the situation where he would have to struggle over it. So the  
19 motion is granted.

20 All right, Juror No. 71.

21 (Prospective juror enters.)

22 THE COURT: Please be seated. Welcome.

23 PROSPECTIVE JUROR: Thank you.

24 THE COURT: You are Juror No. 71.

25 PROSPECTIVE JUROR: Yes.



Prospective Juror No. 71

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1 THE COURT: Okay. Were you able to check to see if  
2 you would be paid by your employer during the period of your  
3 service?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: And?

6 PROSPECTIVE JUROR: I am.

7 THE COURT: You are?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Okay. We expect that the trial will be  
10 over by the time you take your vacation so that should not  
11 create a problem. Have you seen any stories or heard anything  
12 about the trial since you filled out the questionnaire?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Any questions?

15 MR. AGNIFILO: Nothing from us.

16 MS. PENZA: No, Your Honor.

17 THE COURT: Thank you very much for coming and have  
18 a nice day. Sorry for the delay.

19 (Prospective juror exits.)

20 THE COURT: Is there a motion?

21 MR. AGNIFILO: Not from us.

22 MS. PENZA: No, Your Honor.

23 THE COURT: Okay. I think we have five who are  
24 approved and one we have to call back. Let's take a break and  
25 reconvene at 2:00. (Luncheon recess.)

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1 A F T E R N O O N S E S S I O N

2 2:00 p.m.

3 THE COURT: Couple of things. The Government has  
4 now indicated that it wishes to strike Jurors 46, 47, and 53.

5 Is that right?

6 MS. PENZA: Yes, Your Honor. Those are defense  
7 strikes and we are consenting.

8 THE COURT: Well, yes, but both sides concur on  
9 that.

10 MR. AGNIFILO: Correct.

11 THE COURT: Those three individuals are struck on  
12 consent for cause.

13 MR. AGNIFILO: Yes.

14 THE COURT: Then we have two jurors who have not  
15 arrived yet who are on their way, Jurors 38 and 63. So, we'll  
16 take them out of turn, if necessary. In fact, we'll take them  
17 last so that I can give them the instructions that I need to  
18 give them.

19 The other thing is that on the questions that you  
20 have -- I understand that you're running a little late with  
21 the questions -- I really need the questions the day before,  
22 because what I do is I review all of the questionnaires with  
23 your questions the day before or the night before. And if you  
24 send me the questions at 11:00 p.m. the night before, I  
25 apologize, but I don't hang out in chambers 'til midnight in

Jury Selection

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1 order to review your questions.

2 So, they need to come in by -- I know you're here,  
3 but around 4:00 o'clock the day before, so that after we're  
4 done here I can go back and do some more work. So, please  
5 cooperate with me because we're going to be doing this for at  
6 least a week, it would seem to me, maybe longer, depending on  
7 how it goes with the strikes. So, whatever you can do to  
8 accommodate the Court, I would appreciate.

9 Are there other issues that we need to discuss  
10 before we receive the jurors?

11 MR. AGNIFILO: Nothing from us.

12 MS. PENZA: No, Your Honor.

13 THE COURT: Okay. Let's bring in the group. Thank  
14 you.

15 Let me ask the gallery, I don't see the reporter  
16 from The New York Post -- oh, there she is.

17 You moved.

18 MS. SAUL: Yes, I did, Your Honor.

19 THE COURT: You're still the designated observer.

20 MS. SAUL: Yes.

21 THE COURT: What is your name again?

22 MS. SAUL: Emily Saul, S-A-U-L.

23 THE COURT: Oh, yes, that's right. I've seen your  
24 byline. Thank you.

25 (Prospective jurors enter.)

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1 THE COURT: Please be seated, everyone.

2 Good afternoon, ladies and gentlemen. Thank you for  
3 being here. This afternoon, we're going to follow up with  
4 some questions from your questionnaires. And we'll be doing  
5 that one juror at a time; in other words, you'll be sitting  
6 there in the first chair in the first row by the microphone,  
7 and we'll ask the follow-up questions based on what you said  
8 in your questionnaires.

9 I'm going to remind you that I'm Judge Garaufis.  
10 I'll be presiding at the trial.

11 The lawyers for the Government are Moira Penza,  
12 Tanya Hajjar, Mark Lesko, and they are joined at counsel's  
13 table by Michael Wenniger, the FBI case agent on this case.

14 The Defendant is Keith Raniere, who is sitting at  
15 the defense table wearing the sweater. His attorneys are Marc  
16 Agnifilo, Teny Geragos, Paul DerOhannesian, and Danielle  
17 Smith.

18 And I'd just like to go over a few things with you.  
19 I'd like to advise you that Keith Raniere is the only  
20 defendant who will stand trial before this jury that's being  
21 selected. Please do not speculate as to why this is the case.

22 And I'd also like to mention that the way we're  
23 going to handle this is that all of you will, when we complete  
24 this initial statement --

25 Where's Juror 33? Okay.

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1           Everyone else will go back to the jury deliberation  
2 room and wait to be called, and I thank you in advance for  
3 your patience. We move as swiftly as we can, but we are going  
4 to question you all one at a time. Juror No. 33 will just  
5 take the first seat in the first row when the others go back  
6 in the jury room.

7           I'd like to remind you that it's extremely important  
8 that you follow my instruction that you not discuss this case  
9 with anyone; not your family, your friends, your business  
10 associates, and not other jurors. So, for instance, when you  
11 go back to the jury deliberation room, you can discuss the  
12 weather, you can discuss the Mets, you can discuss the  
13 Yankees, you can talk about the theater, you can talk about  
14 movies you like, Netflix, Amazon Prime, whatever it is you  
15 want to talk about, just don't talk about anything to do with  
16 this case.

17           In addition you must not read, listen to, watch, or  
18 access any accounts on this case on any form of media, such as  
19 newspaper, TV, radio, podcasts, and the internet, nor research  
20 or seek outside information about any aspect of this case.

21           Do not communicate with anyone about the case on  
22 your phone, whether through e-mail, text messaging, or any  
23 other means, through any blog or website, or by way of any  
24 social media, including Facebook, Twitter, Instagram, YouTube,  
25 or other similar sites.

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1           You may not consider anything you may have read or  
2 heard about this case outside of this courtroom whether before  
3 or during the voir dire. Do not attempt any independent  
4 research or investigation about the case. Do not visit any of  
5 the locations identified on the questionnaire or discussed  
6 during the course of the jury selection process. And as I  
7 said, do not discuss the case in the jury room while you are  
8 waiting to be interviewed.

9           Now, the trial will begin on Tuesday, May 7, and  
10 will last up to six weeks, until mid-June. The Court will  
11 provide a schedule of trial days before the trial starts.  
12 Please continue to call in to the jury information phone line  
13 as instructed by the jury clerk.

14           And these rules about not discussing the case  
15 continue for you until you are dismissed from jury service.  
16 In other words, you'll be interviewed today and you may not  
17 come back for a week and a half. During that time, you're a  
18 juror. So, until you are excused from jury service, you  
19 cannot and should not discuss the case with anyone.

20           With that having been said, I'm going to ask  
21 everyone except Juror No. 33 to retire to the jury  
22 deliberation room.

23           All rise for the jurors.

24           (Prospective jurors exit.)

25           THE COURT: Good afternoon.

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1 THE PROSPECTIVE JUROR: Hello.

2 THE COURT: You're Juror No. 33, yes?

3 THE PROSPECTIVE JUROR: I am.

4 THE COURT: So, according to your questionnaire,  
5 you're employed full-time at two jobs.

6 THE PROSPECTIVE JUROR: I am. I actually have two  
7 full-time jobs.

8 THE COURT: Well, will you be paid during your jury  
9 service?

10 THE PROSPECTIVE JUROR: Yes.

11 One I'll continue to do because I do it in the  
12 evenings remotely.

13 THE COURT: I see.

14 THE PROSPECTIVE JUROR: And my daytime job, I'm  
15 salaried.

16 THE COURT: So, they will pay your salary during  
17 your service?

18 THE PROSPECTIVE JUROR: Yes, but they're keeping the  
19 50 bucks per day.

20 THE COURT: Oh, is it 50 now?

21 THE PROSPECTIVE JUROR: It is.

22 THE COURT: You indicated in your questionnaire to  
23 this question: Have you or anyone close to you everybody the  
24 victim of sexual assault, including date rape?

25 You answered: Yes.

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1           You said, My niece -- and you put down the name of  
2 your niece, but I'm not going to mention it here -- was a  
3 victim of date rape.

4           THE PROSPECTIVE JUROR: Yeah.

5           THE COURT: How long ago was that?

6           THE PROSPECTIVE JUROR: Maybe about five years ago.

7           THE COURT: I see. And was that reported?

8           THE PROSPECTIVE JUROR: No.

9           It was something she talked about on social media  
10 with the whole Me Too movement. She disclosed that to her  
11 social media world, which I'm a part of, as a way of  
12 explaining that these sorts of things had happened to her too.

13          THE COURT: I see.

14          And then you answered: Do you have any personal  
15 experience where you were victimized that would make it  
16 difficult for you to be a fair and impartial juror in this  
17 case?

18          And you said: No.

19          THE PROSPECTIVE JUROR: Unfortunately, I think many  
20 people are sexually abused and it's, unfortunately, very  
21 commonplace.

22          I don't think it would keep me from being able to be  
23 serving as a juror.

24          THE COURT: Do you think if you heard testimony of  
25 that kind you could maintain your ability to be fair and



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1 impartial in considering whether to give credence to such  
2 testimony?

3 In other words, there are witnesses who will come  
4 here and say certain things and you have to evaluate their  
5 veracity in the course of your jury service and your  
6 deliberations.

7 Do you think you could be fair and impartial in  
8 doing so?

9 THE PROSPECTIVE JUROR: I think that the sexual  
10 nature is not something that would affect me.

11 But, honestly, I've spent about 14 years really  
12 deeply researching the topic of slavery. I'm a historian, a  
13 historical researcher.

14 THE COURT: Right.

15 THE PROSPECTIVE JUROR: And that is a topic that I'm  
16 so deeply involved in, I've come to understand the harms of  
17 slavery more than the average person because I've researched  
18 it so deeply and for so long.

19 THE COURT: If you have a certain nuance  
20 understanding of something like that, do you think that would  
21 assist you or hinder you in fairly and impartially considering  
22 the issues that you would need to resolve in this case?

23 THE PROSPECTIVE JUROR: You know, I would always try  
24 to be fair, but I think that my knowledge of the harms of  
25 enslaving another person are such that it would -- it would

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1 definitely be more impactful in my mind than on a person's  
2 mind who had not done that level of research. I would be  
3 thinking about it a lot just because of my understanding of  
4 it.

5 THE COURT: And the research that you did was  
6 slavery in what context, in American history or some other  
7 subarea?

8 THE PROSPECTIVE JUROR: I work for a history museum  
9 in Oyster Bay, New York. And about 14 years ago, we bought at  
10 auction a very unique document, and I did a year long exhibit  
11 on it, a Bible, that listed slaves of the household. Then it  
12 went a little further and I stumbled upon a story that I  
13 really think is going to change African-American history.

14 I'm working on a book about a particular woman of  
15 New York in the Revolutionary War and the years after. It's  
16 just an incredible untold story, and it's become, you know, a  
17 little obsessive for me to get this published. I've been  
18 working on it for about 14 years.

19 THE COURT: As a member of the jury, if you're  
20 selected, will you limit your consideration of the facts to  
21 the facts that are brought forward in this trial rather than  
22 facts having to do with extraneous, though important to you,  
23 issues that you have researched?

24 THE PROSPECTIVE JUROR: I'll try to be fair. I  
25 think on the topic of enslaving others, it's going to impact

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1 my judgment. I just think that -- I'll try to be fair, but  
2 it's going to definitely weigh on my mind because of my  
3 exposure to that topic.

4 THE COURT: All right. Fair enough.

5 Now, you were asked this question: Have you ever  
6 known anyone who you believe was falsely accused of sexual  
7 abuse or sexual assault of a minor or an adult?

8 You said: Yes. In my Connecticut job, my  
9 co-worker's son was falsely accused of having a sexual  
10 relationship with a minor. He was a high school teacher and  
11 lost his job.

12 So, you're also aware that sometimes people are  
13 falsely accused of doing things that cause harm to them --

14 THE PROSPECTIVE JUROR: And it's hard to say that  
15 he's falsely accused. I mean, he lost his job. He was  
16 cleared of any misconduct. I mean, I can't know whether he  
17 really had a relationship with a student or not.

18 THE COURT: Well, you weren't his judge.

19 THE PROSPECTIVE JUROR: Right.

20 THE COURT: You weren't his jury.

21 THE PROSPECTIVE JUROR: Right.

22 And it didn't go to court. It was looked at by  
23 Social Services and he lost his job.

24 THE COURT: I see.

25 THE PROSPECTIVE JUROR: And he's unable to work in

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1 that field now.

2 THE COURT: I see.

3 Any other questions?

4 Hearing none, thank you very much for coming in.

5 Have a nice day.

6 THE PROSPECTIVE JUROR: You too.

7 (Prospective juror exits.)

8 THE COURT: Any motions?

9 MR. AGNIFILO: One second, Judge.

10 THE COURT: Sure.

11 (Pause in proceedings.)

12 MR. AGNIFILO: Your Honor, we're going to move to  
13 strike the juror for cause over the slavery-related questions.

14 Part of the trial evidence in connection with the  
15 DOS allegations is that there was sort of trappings of  
16 slavery, including that the DOS slaves were called slaves and  
17 these were slaves in the context of a life commitment, meaning  
18 that they would be slaves to their masters forever. And my  
19 concern is this juror, obviously, is very passionate about the  
20 subject and working on a book.

21 THE COURT: For 14 years.

22 MR. AGNIFILO: For 14 years.

23 And we can't get away from the fact that the whole  
24 DOS idiom is really crafted around slavery and the use of the  
25 term "slave," And it's built into the sex trafficking charge

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1 in that regard.

2 So, my concern is -- and I was thinking very hard is  
3 there a question that I could think of to sort of tease this  
4 out of her, and I don't know that there is without getting  
5 into the evidence too, too much. I think what she said is  
6 it's going to be very impactful, it's going to weigh on her  
7 mind, the whole enslavement of another person.

8 And I'm just concerned that she won't be able to put  
9 sort of her life's work aside and her admitted strong feelings  
10 about slavery because of her own hands-on research and look  
11 the at the evidence objectively.

12 Thank you.

13 MS. PENZA: Your Honor, the Government consents to  
14 her being stricken for cause.

15 THE COURT: I have a concern. My concern is should  
16 I be asking everybody questions about whether they feel  
17 strongly about people being enslaved?

18 There may be people who have studied American  
19 history, like myself, who have very strong views on this  
20 subject. There may be African-Americans whose ancestors were  
21 slaves. We could take this to the nth degree here in New  
22 York, and I'm sure we'll find a lot of people who are among  
23 the 500 who have very strong views on this. They may not be  
24 studying it or have studied it, but they may feel very  
25 strongly about it. And any time you use the term "slave," it

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1 raises the specter that people will have strong feelings about  
2 it.

3 So, I'm going to grant the motion, but we can take  
4 this to an extreme. This juror is talking about racial  
5 slavery having to do with the America that brought on the  
6 Civil War. That's the slavery she's talking about. She's not  
7 talking about people being, quote, enslaved for sexual  
8 reasons, allegedly.

9 So I'm just concerned that if we start striking  
10 people over the slavery question, then we have a whole new set  
11 of questions that we might have to add, and I don't want to  
12 move in that direction. This isn't slavery in the classic  
13 racial slavery case. So, I just raise this issue with you.  
14 And if this is what you want, we'll go back to the drawing  
15 board and start talking about slavery and all its  
16 permutations.

17 Not knowing all the facts of this case -- which I  
18 don't -- I don't know how close this comes to the kind of  
19 slavery that this juror is addressing in her book, which she  
20 has not yet finished in 14 years. So, I just raise that with  
21 you.

22 Juror 33 is struck.

23 (Prospective juror enters.)

24 THE COURT: Please be seated, sir. Good afternoon.

25 THE PROSPECTIVE JUROR: Good afternoon.

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1 THE COURT: You're Juror No. 36, correct?

2 THE PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Now, sir, you're employed full-time?

4 THE PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: And will you be paid for your entire  
6 jury service by your employer?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: You answered the following question:  
9 Have you or anyone close to you ever been the victim of sexual  
10 assault, including date rape?

11 And the answer was, Yes.

12 And then you said, Someone close to me had a similar  
13 situation as a teenager of rape.

14 Is that right?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: And how old was this person?

17 THE PROSPECTIVE JUROR: I want to say maybe in  
18 middle school, so maybe 12, 13.

19 THE COURT: And was this reported to the  
20 authorities?

21 THE PROSPECTIVE JUROR: No.

22 THE COURT: And what was this person's relationship  
23 with you?

24 THE PROSPECTIVE JUROR: Really, like, a friend of a  
25 friend.

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1 THE COURT: How old were you at the time?

2 THE PROSPECTIVE JUROR: I probably was about 15, 16.

3 THE COURT: I see. But you don't know what  
4 happened, meaning the follow-up to the accusation of the  
5 claim.

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Well, based on knowledge of this, would  
8 that affect your ability to be fair and impartial in  
9 considering the allegations in this case?

10 THE PROSPECTIVE JUROR: Wouldn't affect me at all.

11 THE COURT: Any other questions?

12 MR. AGNIFILO: Nothing from us, Your Honor.

13 MS. PENZA: No, Your Honor.

14 THE COURT: Okay. I want to thank you for coming  
15 in. You have a nice day, sir.

16 THE PROSPECTIVE JUROR: You too.

17 (Prospective juror exits.)

18 THE COURT: Is there a motion?

19 MR. AGNIFILO: Not from us, Judge.

20 MS. PENZA: No, Your Honor.

21 THE COURT: All right. Juror No. 36 is approved.  
22 No. 37.

23 (Prospective juror enters.)

24 THE COURT: Please be seated, sir. Good afternoon.  
25 Let's take a sidebar.



Sidebar

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1 (The following occurred at sidebar.)

2 THE COURT: I received a letter from a psychologist  
3 at a facility in Staten Island regarding this individual.  
4 I'll just show it to counsel and then I'll ask a question.

5 (Pause in proceedings.)

6 THE COURT: Is there any objection to my excusing  
7 him for cause?

8 MS. PENZA: No objection.

9 MR. AGNIFILO: Not from us, no.

10 THE COURT: Thank you.

11 (Sidebar ends; in open court.)

12 THE COURT: Juror 37, thank you. Good afternoon.  
13 You work part-time?

14 THE PROSPECTIVE JUROR: I work two part-time jobs.

15 THE COURT: Teaching. You teach?

16 THE PROSPECTIVE JUROR: I am a part-time substitute  
17 teacher and a part-time retail associate at Ikea Brooklyn.

18 THE COURT: I have this letter. This is a letter --

19 THE PROSPECTIVE JUROR: My doctor, yes.

20 THE COURT: Your doctor.

21 I want to thank you very much. You have a nice day.  
22 We appreciate you're coming in. You're excused.

23 THE PROSPECTIVE JUROR: Thank you very much.

24 (Prospective juror exits.)

25 THE COURT: On consent of the parties, Juror 37 is

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1 excused.

2 MR. AGNIFILO: Yes, on consent.

3 THE COURT: We're going to do Juror No. 40 next.

4 (Prospective juror enters.)

5 THE COURT: Please be seated, sir.

6 THE PROSPECTIVE JUROR: Hi.

7 THE COURT: You're Juror No. 40?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: Welcome. I have a few follow-up  
10 questions for you.

11 Do you know whether you will be paid by your  
12 employer for your jury service?

13 THE PROSPECTIVE JUROR: Yeah, I think so, because  
14 some of my co-worker, when they go to jury they get paid.

15 THE COURT: Will you be paid for the entire period  
16 of your jury service?

17 THE PROSPECTIVE JUROR: I'm not sure about that.

18 THE COURT: Well, it's something I'd like you to  
19 check with your employer.

20 If you were not paid for the entire six weeks, would  
21 that be a hardship for you?

22 THE PROSPECTIVE JUROR: Yeah. I have a mortgage to  
23 pay, you know.

24 THE COURT: Do you work weekends?

25 THE PROSPECTIVE JUROR: Yeah, every other weekend.

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1 THE COURT: Every other weekend. Well, you can keep  
2 doing that, obviously.

3 Now, you answered this question: There may be  
4 evidence in this case about abortions. Would hearing about  
5 that type of evidence affect your ability to serve as a fair  
6 and impartial juror in this case?

7 You answered: Yes.

8 You said: I don't believe in abortion. For me, it  
9 is a mortal sin.

10 THE PROSPECTIVE JUROR: Yeah.

11 THE COURT: And if there's evidence that there were  
12 legal abortions of certain people, would that affect your  
13 ability to be fair and impartial in this case?

14 THE PROSPECTIVE JUROR: I think so because that's my  
15 belief, that abortion is a sin.

16 THE COURT: You indicated that when you were a  
17 child, nine years old, one of your teachers tried to  
18 impermissibly touch you; is that right?

19 THE PROSPECTIVE JUROR: Yes, but it was, like, I  
20 don't think nine is correct. Like, 12 years old.

21 THE COURT: You said nine.

22 THE PROSPECTIVE JUROR: I think I was, like, fourth  
23 grade, something like that.

24 THE COURT: I see.

25 Would that affect your ability to serve as a fair

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1 and impartial juror in a case involving issues of sexual  
2 behavior?

3 THE PROSPECTIVE JUROR: Yeah, I think so, because  
4 I'm a victim of that sexual abuse, something like that.

5 THE COURT: Have you ever been a juror before?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: And you say that you believe that this  
8 would affect your ability to serve as a fair and impartial  
9 juror because it changed your life: I became a quiet person  
10 and I don't like to talk about it.

11 THE PROSPECTIVE JUROR: Yeah, that's true.

12 THE COURT: So, you think you would be able to put  
13 aside your personal views about abortion and to consider the  
14 facts of this case, which may have a number of abortions that  
15 took place which may or may not have been legal abortions?

16 Let's take legal abortions first.

17 THE PROSPECTIVE JUROR: For me, the only legal  
18 abortion is if the mother's life is in jeopardy. That's the  
19 only thing I can think that's going to be legal because  
20 killing babies is really not my belief.

21 THE COURT: Any other questions?

22 MR. AGNIFILO: Nothing from us, Judge.

23 MS. PENZA: No, Your Honor.

24 THE COURT: I want to thank you for coming in. You  
25 have a nice day, sir.

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1 THE PROSPECTIVE JUROR: Thank you.

2 THE COURT: You're welcome.

3 (Prospective juror exits.)

4 MR. AGNIFILO: We move to excuse this potential  
5 juror for cause on the abortion issue and on his personal  
6 issue from when he was a child, which he seems to be  
7 understandably traumatized by. He doesn't want to talk about  
8 it, he perceives it changed him as a person, made him quiet.  
9 I think certainly in combination he should be excused for  
10 cause.

11 MS. PENZA: Your Honor, the Government consents  
12 regarding his own personal experience of childhood sexual  
13 abuse, but the Government does wish to state that we don't  
14 consent to a cause strike on abortion given his statements so  
15 far.

16 It can't be everyone who is pro life can't serve on  
17 this jury. That's not what this case is about and it's  
18 cutting off a huge number of potential jurors.

19 THE COURT: Motion is granted.

20 (Prospective juror enters.)

21 THE COURT: Please be seated, sir. Good afternoon.  
22 You are Juror No. 42, correct?

23 THE PROSPECTIVE JUROR: That is correct.

24 THE COURT: With respect to your employment, are you  
25 employed full-time?

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1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: And you do geographic field data  
3 collection, right?

4 THE PROSPECTIVE JUROR: That's correct.

5 THE COURT: And did you check with your employer as  
6 to whether they pay for your jury service.

7 THE PROSPECTIVE JUROR: Yes, they do.

8 However, the nature of the service to date so far,  
9 that kind of constant standby, interferes extremely with my  
10 ability to get any work down. My job is 100 percent travel,  
11 basically. The whole call in to show up the next day really  
12 makes any sort of getting any anything done and interferes  
13 with my ability to collect hours.

14 They will pay me for jury service. They won't pay  
15 me for not jury service, when I'm calling in and so forth,  
16 which is a frustration.

17 THE COURT: They will pay you for the days they want  
18 you but you can't serve; is that what you're saying?

19 THE PROSPECTIVE JUROR: Correct. If I have to call  
20 and see if I'm wanted, I can't travel to where I actually get  
21 work done. So, if I need to be home and on standby but I'm  
22 not actually coming into court, I'm not paid and I can't make  
23 hours for work because work is in Plattsburgh or whatever.

24 THE COURT: You will know what days you have to be  
25 in court. And those are the days you're not available to

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1 work, right?

2 THE PROSPECTIVE JUROR: That has not been the case  
3 so far. The whole call-in-and-we'll-see-if-we-need-you-on-  
4 this-particular-day has been a frustration.

5 THE COURT: I'm sure it is, but if you were selected  
6 to be on the jury you will receive a schedule of the days that  
7 you will be sitting as a juror.

8 THE PROSPECTIVE JUROR: Okay.

9 THE COURT: We don't just tell you tomorrow don't  
10 bother coming in. You need to know because you, and many  
11 other people, can arrange their work schedule in such a way  
12 that they can maximize their availability for work and still  
13 serve on the jury.

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: So, that's how it will work.

16 THE PROSPECTIVE JUROR: Okay.

17 THE COURT: I just wanted to let you know. It's not  
18 like this, where every day we're interviewing a certain number  
19 of people and you just happen to be on Monday. We're not  
20 going to call you back on Wednesday once we've interviewed you  
21 on Monday and the trial doesn't start until May 7.

22 THE PROSPECTIVE JUROR: Okay.

23 THE COURT: Any questions?

24 MR. AGNIFILO: Not from us, Judge.

25 THE COURT: Okay. Thank you very much for coming

Jury Selection

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1 in. Have a nice day.

2 (Prospective juror exits.)

3 THE COURT: Is there a motion?

4 MR. AGNIFILO: Not from us.

5 MS. PENZA: No, Your Honor.

6 I'm still a little confused as to his hardship, but  
7 it sounds like he would be paid for the period of trial, in  
8 which case we have no motion.

9 THE COURT: He says he'll be paid for his jury  
10 service.

11 MS. PENZA: That's fine, Your Honor.

12 THE COURT: Juror 42 is approved.

13

14 (Continued on the following page.)

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Prospective Juror No. 44

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1 THE COURT: Let's find out when in June she's going  
2 away. Juror No. 44.

3 (Prospective Juror No. 44 enters the courtroom.)

4 THE COURT: Come on in. Have a seat, ma'am.

5 THE PROSPECTIVE JUROR: Hi there.

6 THE COURT: Please be seated, everyone.

7 You are Juror No. 44, correct?

8 THE PROSPECTIVE JUROR: That's correct.

9 THE COURT: Okay. Welcome.

10 You indicated in your questionnaire that you would  
11 be traveling in June. When in June are you going to travel?

12 THE PROSPECTIVE JUROR: It's -- I believe it's the  
13 second or third weekend. I'm not sure. We're going to  
14 Nashville, my daughter and her girlfriend, to see Ariana

15 Grande at a concert. I would need to get the specific dates.

16 THE COURT: You don't know what days you are going  
17 to be away?

18 THE PROSPECTIVE JUROR: It's going to be Thursday  
19 through a Sunday.

20 THE COURT: You don't know which weekend?

21 THE PROSPECTIVE JUROR: If I had a calendar, I could  
22 probably tell.

23 THE COURT: Here's a calendar.

24 THE PROSPECTIVE JUROR: I believe it's the 6th, 7th,  
25 8th and the 9th.

Prospective Juror No. 44

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1 THE COURT: Thank you.

2 Are there any questions?

3 MR. AGNIFILO: I don't, Judge.

4 MS. PENZA: No, Your Honor.

5 THE COURT: Okay. Enjoy the concert.

6 THE PROSPECTIVE JUROR: Thank you.

7 THE COURT: Feel better.

8 THE PROSPECTIVE JUROR: Thank you.

9 (Prospective Juror No. 44 exits the courtroom.)

10 MR. AGNIFILO: For cause, Judge.

11 MS. PENZA: We object, Your Honor. She's only --

12 the concert, I believe, is the 7th. We're not sitting on

13 Fridays anyway and so we believe that we could, accommodations

14 could be made. Perhaps we can end early on the Thursday but

15 it's not a cause basis in a six-week trial --

16 MR. AGNIFILO: I withdraw it.

17 THE COURT: Well --

18 MR. AGNIFILO: Maybe we need more information. I

19 don't know.

20 THE COURT: Well, then we need more information.

21 Would you see if you can get that juror back?

22 Because we have some other questions then.

23 (Prospective Juror No. 44 enters the courtroom.)

24 THE COURT: We just have a couple more questions.

25 Sorry about that.

Prospective Juror No. 44

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1 THE PROSPECTIVE JUROR: That's okay.

2 THE COURT: So what time are you leaving on  
3 Thursday? Do you have tickets on an airplane?

4 THE PROSPECTIVE JUROR: Not yet. It's going to be  
5 an evening flight with my daughter.

6 THE COURT: Oh. Okay. We're not -- we don't work  
7 on Fridays. We don't have -- we don't have, expect to have a  
8 trial on this Friday.

9 THE PROSPECTIVE JUROR: Okay.

10 THE COURT: All right. So if you left on Thursday  
11 evening and came back on Sunday, you would not miss any day of  
12 trial is what I'm saying.

13 THE PROSPECTIVE JUROR: Right.

14 THE COURT: I have another question because you  
15 raised the issue about your health.

16 You indicated sometimes you need to walk around.  
17 The way it works at the trial is we go from 9:30 to 11:15, we  
18 take a break, then we have lunch at 1:00. Then at 2:00, we  
19 start again and at about midway through the afternoon, we take  
20 another break and we finish by 5:00, but if someone needs to  
21 leave the room, they did leave the room and we wait so it's  
22 not, it happens all the time. It doesn't single one person  
23 out. There may be three people on the jury who at some point  
24 need to leave the room when we're trying the case and we just  
25 wait, but we also have those designated periods.

CMH

OCR

RMR

CRR

FCRR

Prospective Juror No. 48

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1 Do you think you would have any trouble serving on a  
2 jury with those --

3 THE PROSPECTIVE JUROR: No, because I do that at  
4 work where I sit for quite some time and then I get up and I  
5 need to walk around a little bit. Otherwise, I start to grow  
6 roots.

7 THE COURT: Okay. Well, I just wanted to explain to  
8 you how it works. I didn't expect that you would know how we  
9 try cases here but that is how I try cases. All right?

10 Any other questions?

11 MR. AGNIFILO: Nothing from us, gum.

12 MS. PENZA: No, Your Honor.

13 THE COURT: Okay. Let's do this again. Have a nice  
14 day.

15 THE PROSPECTIVE JUROR: Thank you.

16 (Prospective Juror No. 44 exits the courtroom.)

17 THE COURT: Is there a motion?

18 MR. AGNIFILO: Not from us.

19 MS. PENZA: No, Your Honor.

20 THE COURT: All right. Juror No. 44 is approved.  
21 Now we will go to 48.

22 (Prospective Juror No. 48 enters the courtroom.)

23 THE COURT: Please be seated, sir. Welcome.

24 THE PROSPECTIVE JUROR: Thank you.

25 THE COURT: You are Juror No. 48?

Prospective Juror No. 48

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1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: Okay. And you are a government  
3 employee?

4 THE PROSPECTIVE JUROR: Correct.

5 THE COURT: Okay. Would the fact that you are a  
6 government employee have any effect on your ability to be fair  
7 and impartial in considering a case where government employees  
8 will be testifying and the case was brought by the government  
9 against a defendant?

10 THE PROSPECTIVE JUROR: No, that would not be a  
11 problem.

12 THE COURT: Okay. Now, you also indicated that you  
13 have heard something about the NXIVM case, is that right?

14 THE PROSPECTIVE JUROR: That's correct.

15 THE COURT: Where did you hear about it?

16 THE PROSPECTIVE JUROR: I think it was in the New  
17 York Post or something like that.

18 THE COURT: The New York Post? Okay. And so what  
19 did you learn, if you remember?

20 THE PROSPECTIVE JUROR: I just learned that there  
21 was a star from a show that I used to watch, "Smallville."

22 THE COURT: Right.

23 THE PROSPECTIVE JUROR: That she was part of this  
24 case.

25 THE COURT: I see.

CMH

OCR

RMR

CRR

FCRR

Prospective Juror No. 48

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1 THE PROSPECTIVE JUROR: But --

2 THE COURT: Assume for the sake of argument that  
3 this person has some relationship with the case. Do you think  
4 that would affect your ability to be fair and impartial in  
5 considering the facts of this case here in court?

6 THE PROSPECTIVE JUROR: No, I don't think so.

7 THE COURT: Okay. That show was on a long time ago.

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: You used to watch it?

10 THE PROSPECTIVE JUROR: I used to watch it all the  
11 time, yes, because I'm a big Superman fan.

12 THE COURT: You too?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: Okay. Are there any other questions?

15 MS. PENZA: No, Your Honor.

16 MR. AGNIFILO: No.

17 THE COURT: Okay. I want to thank you for coming  
18 in. You have a nice day.

19 THE PROSPECTIVE JUROR: Thank you. You too:  
20 (Prospective Juror No. 48 exits the courtroom.)

21 THE COURT: Is there a motion?

22 MR. AGNIFILO: Not from us.

23 MS. PENZA: No, Your Honor.

24 THE COURT: All right. Juror No. 48 is approved.

25 Juror No. 50.

Prospective Juror No. 50

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1 (Prospective Juror No. 50 enters the courtroom.)

2 THE COURT: Please be seated, sir. Welcome.

3 You are Juror No. 50, correct?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Okay. And you work part time at this  
6 time or full time?

7 THE PROSPECTIVE JUROR: I work part time.

8 THE COURT: Okay. And you work at a hospital,  
9 correct?

10 THE PROSPECTIVE JUROR: Yes.

11 THE COURT: And you will be paid for your jury  
12 service, is that right?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: Okay. Have you read anything about this  
15 case?

16 THE PROSPECTIVE JUROR: It did not occur to me on  
17 April 8th when I did the questionnaire but later in the day, I  
18 realized this was a story that broke last year. So I had read  
19 last year about this case, yes.

20 THE COURT: Whatever you read, would you be able to  
21 separate that out and only consider the evidence that is  
22 presented here in the court in considering what the jury's  
23 decision will be?

24 THE PROSPECTIVE JUROR: Yes.

25 THE COURT: Okay. Any other questions?

Prospective Juror No. 52

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1 MR. AGNIFILO: Nothing from us, Judge.

2 MS. PENZA: No, Your Honor.

3 THE COURT: Okay. Thanks very much. Have a nice  
4 day.

5 (Prospective Juror No. 50 exits the courtroom.)

6 THE CLERK: 52?

7 THE COURT: Yes.

8 (Prospective Juror No. 52 enters the courtroom.)

9 THE COURT: Please be seated, sir.

10 THE PROSPECTIVE JUROR: Thank you.

11 THE COURT: Good afternoon.

12 THE PROSPECTIVE JUROR: Good afternoon.

13 THE COURT: You are Juror No. 52, is that correct?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: And let me just ask you about your  
16 employment. You indicate that you are employed full time. Do  
17 you work for a government agency or a private entity?

18 THE PROSPECTIVE JUROR: I work for a private bank.

19 THE COURT: You work for a bank? And the bank will  
20 pay you for your jury service?

21 THE PROSPECTIVE JUROR: Up to my understanding, yes.  
22 They did not mention any time limit so, yes.

23 THE COURT: Is it a large bank or a small bank?

24 THE PROSPECTIVE JUROR: It's one of the biggest  
25 banks.



Prospective Juror No. 52

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1 THE COURT: Okay. You have answered my question.  
2 Thank you.

3 Now, you indicated that you are a Muslim and you  
4 attempt to pray five times a day and you fast in, it will be,  
5 I guess, next month, Ramadan?

6 THE PROSPECTIVE JUROR: May 6th.

7 THE COURT: That lasts a month?

8 THE PROSPECTIVE JUROR: Thirty days, yes.

9 THE COURT: Well, let me just tell you about the  
10 schedule for jury service. Every day of the trial, we start  
11 at 9:30, we take a mid-morning break, we take a lunch break,  
12 then we take a mid-afternoon break and then we break for the  
13 day at 5:00. Do you think you could deal with that?

14 THE PROSPECTIVE JUROR: Schedule-wise, it's not a  
15 problem. It's -- the only thing that concerns me is the  
16 content of the case as, you know, religious beliefs, some of  
17 that stuff is prohibited for me to go through. So that's the  
18 only reason I would be a fear about that. Other than that,  
19 the schedule, I would be at work during that time anyway so  
20 that doesn't matter, being here or being at work.

21 THE COURT: So the religious impediment, can you  
22 identify what that is?

23 THE PROSPECTIVE JUROR: So, part of the  
24 questionnaire had mentioned that some of the, you know,  
25 related evidence has nude or sexual, you know, contents.

Sidebar

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1 That's part of my concern. Other than that, being here until  
2 5:00 or 5:30, that is not a problem.

3 THE COURT: Well, there will be, I believe, evidence  
4 presented, either, you know, visual, documentary or witness  
5 testimony having to do with some of those issues, having to do  
6 with sexual activity and so on.

7 Are you saying that because you are a Muslim, it is  
8 something that you are forbidden from hearing?

9 THE PROSPECTIVE JUROR: Not necessarily hearing but  
10 if it's something in terms of the visuals, then I'm not  
11 supposed to see it while at least I'm fasting.

12 THE COURT: Oh, I see.

13 THE PROSPECTIVE JUROR: So that's the only, you  
14 know, nude pictures or anything in that, in that content.  
15 Hearing it, of course, you're hearing the facts so that  
16 shouldn't be a problem.

17 THE COURT: Are there other questions?

18 MR. AGNIFILO: Can we have a quick sidebar, Judge?

19 THE COURT: Sure.

20 (The following occurred at sidebar.)

21 THE COURT: Yes.

22 MR. AGNIFILO: My concern is he literally can't look  
23 at naked women which is going to be part, a lot of the  
24 government's evidence. I think he literally can't look at it.

25 MS. PENZA: Certainly there is going to be, there is

Prospective Juror No. 52

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1 going to be explicit sexual images. I'm wondering if we can  
2 do something to accommodate his concerns. Like, for him,  
3 perhaps there can be, like, blurring or redacting of  
4 genitalia, things like that, if that would be enough to  
5 alleviate his concerns. We're not looking to obviously hurt  
6 his religious rights, but we also don't believe it should be a  
7 reason for him not to be allowed to serve as a juror.

8 THE COURT: All right. Let me ask. Thank you,  
9 everybody.

10 (In open court; sidebar ends.)

11 THE COURT: So let me put a finer point on this for  
12 you.

13 THE PROSPECTIVE JUROR: Sure.

14 THE COURT: If during this period there are  
15 photographs, let's say, of women who are naked but the, the  
16 photos are let's say Photoshopped to avoid showing women's  
17 genitalia and so on, that would be all right?

18 THE PROSPECTIVE JUROR: As long as, yes, the private  
19 parts and, you know, things are covered, yes, that's fine.

20 THE COURT: Well, covered but it would not -- they  
21 would not be covered. They would be disguised. There's a  
22 difference between -- in other words, they are not going to  
23 put a dress on a woman. They are going to do what is done on  
24 late night television, you know, where they make it so you  
25 can't tell what it is but you know the person was not dressed.

Prospective Juror No. 52

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1 I am not quite sure how that would be done but that is not my  
2 problem.

3 THE PROSPECTIVE JUROR: Yes, I'm not sure either.  
4 That really, you know, depends on, you know, the material.

5 Part of me, you know, really wants to serve as a  
6 citizen but the timing is really critical so I'll let it --  
7 I'll let you decide what's the best scenario in that,  
8 considering the, you know, the sensitivity of the issue and  
9 I'll leave it up to you.

10 THE COURT: Well, but I want to know, you know,  
11 how --

12 THE PROSPECTIVE JUROR: If you want me to say that  
13 if I will be comfortable, the answer would be no, but the, you  
14 know, again, it's -- you know, as I said, as a citizen, my  
15 duty is to serve and I am not trying to run away from that,  
16 but I'm just letting you know what's important to me as a  
17 human and that will not be comfortable but if that's something  
18 is required, I will be here.

19 THE COURT: All right. Well, I appreciate your  
20 willingness to attempt to accommodate our efforts to seat a  
21 jury so we thank you for that and I am sensitive to your  
22 religious --

23 THE PROSPECTIVE JUROR: Thank you.

24 THE COURT: -- principles.

25 Any other questions?

Prospective Juror No. 52

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1 MR. AGNIFILO: Nothing from us.

2 MS. PENZA: No, Your Honor.

3 THE COURT: All right. Thank you for coming in.

4 You have a nice day, sir.

5 THE PROSPECTIVE JUROR: You too. Thank you.

6 (Prospective Juror No. 52 exits the courtroom.)

7 MS. PENZA: Your Honor, may the government have a  
8 minute to confer?

9 THE COURT: You may have a minute.

10 MS. PENZA: Thank you.

11 (Pause.)

12 THE COURT: Yes?

13 MS. PENZA: Yes, Your Honor. So we, we checked and  
14 it appears as if Ramadan ends on June 4th. So what the  
15 government proposes, we were obviously going to take great  
16 concerns about how these images are displayed anyway within  
17 the course of the trial and so we're wondering if there's a  
18 way that the, that this juror could just not review those  
19 images which we were only going to seek to publish to the jury  
20 until after Ramadan. So by the time we're in deliberations,  
21 Ramadan will have ended and so we believe he could be  
22 accommodated that way.

23 THE COURT: Well, I'm not sure that this is only for  
24 Ramadan that he's speaking about. Did you get that sense?

25 MS. PENZA: Yes, I did. I got the sense that, like,

Prospective Juror No. 52

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1 during Ramadan, during that period, it's a specific level of  
2 concern.

3 THE COURT: I see.

4 MR. AGNIFILO: So my concern is two-fold. One, I  
5 think, I agree with Ms. Penza, it is a heightened sort of --

6 THE COURT: Right.

7 MR. AGNIFILO: -- but, and I don't know how the  
8 government is going to handle this. If the government's  
9 intent regardless of this juror is to show naked pictures, I  
10 wouldn't want one juror seeing different evidence than all the  
11 other jurors.

12 THE COURT: I don't think -- was that what you  
13 planned?

14 MS. PENZA: No, I think, I think we're proposing  
15 that for actual naked images, we were going to, don't hold me  
16 to the exact format of publication, Your Honor, but I think we  
17 were going to have individualized binders for the jurors so  
18 that it can be done in a discreet manner and so given that, I  
19 think that this juror could choose not to look at them at the  
20 time while they're being described and choose to look at them  
21 after Ramadan ends.

22 MR. AGNIFILO: I have concerns with one juror doing  
23 something different than the other eleven jurors in terms of a  
24 piece of evidence.

25 I love this young man. I would love this young man

Prospective Juror No. 52

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1 to be a juror in this case. He's honest, he has great  
2 civic-mindedness, he's every good thing, however, this is a  
3 case that focuses on naked women. Not every case in this  
4 courthouse does. He can get on a nice securities fraud case  
5 and not have this problem.

6 THE COURT: Okay. I understand that.

7 MR. AGNIFILO: So I have to object to him only  
8 because of the fact that he has to look at the evidence I  
9 think when it comes in with the other jurors. He shouldn't  
10 have to play catch-up after Ramadan ends. He's a great young  
11 man. I would love to have him as a juror in my trial but I  
12 just don't think it's workable.

13 MS. PENZA: Your Honor, the government believes that  
14 his religious needs could be accommodated here.

15 THE COURT: Well, all the jurors could be shown the  
16 same picture with the, in the way that I described sort of  
17 artlessly to the juror and then later on, you could publish it  
18 without the adjustments.

19 MS. PENZA: Yes, Your Honor, and there are only a  
20 few specific pieces of evidence where we would need to do  
21 that.

22 THE COURT: But I agree with Mr. Agnifilo that I  
23 wouldn't want to say, Well, you know, 17 of you are going to  
24 see the full monty here and one of you is just going to see an  
25 adjustment, you know.

Prospective Juror No. 52

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1 MS. PENZA: Well, Your Honor, we would be willing to  
2 do that and then pick up again --

3 THE COURT: Why don't we take that up. If he is a  
4 juror and we have this issue, we can discuss it at the time,  
5 but understanding that all the jurors have to see the same  
6 thing at the same time and if you want, if you are willing to  
7 accommodate the religious requirements of this juror during  
8 Ramadan, I will certainly cooperate with you, but all jurors  
9 have to see the same thing at the same time.

10 MS. PENZA: Fair enough, Your Honor. Thank you.

11 MR. AGNIFILO: Thank you, Judge.

12 THE COURT: Are you objecting now? You can object.  
13 It is up to you.

14 MR. AGNIFILO: I'm happy with the Court's proposal.  
15 I mean, I want to work with him.

16 THE COURT: I know you like him.

17 MR. AGNIFILO: I do.

18 THE COURT: Okay. All right. There is no  
19 objection. He is approved.

20 MR. AGNIFILO: Your Honor, before we get to the next  
21 one, if Your Honor said it, I missed it. I don't know if Your  
22 Honor actually gave the go-ahead to No. 50, the one before 52.  
23 We didn't object and the government didn't object.

24 THE COURT: 50 is approved.

25 MR. AGNIFILO: Okay. Thank you.



Prospective Juror No. 57

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1 THE COURT: Thank you. So 52 is approved.

2 We are doing 57 next.

3 (Prospective Juror No. 57 enters the courtroom.)

4 THE COURT: Be seated, sir. Good afternoon.

5 THE PROSPECTIVE JUROR: Your Honor, good afternoon.

6 THE COURT: You are Juror No. 57, are you not?

7 THE PROSPECTIVE JUROR: Yes, I am.

8 THE COURT: Now, you are currently employed full

9 time?

10 THE PROSPECTIVE JUROR: No, I am unemployed at this

11 point.

12 THE COURT: Okay. Are you looking for work?

13 THE PROSPECTIVE JUROR: Yes, I am.

14 THE COURT: Okay. Are you close to finding a new

15 job?

16 THE PROSPECTIVE JUROR: At this point, no. I've

17 been applying for jobs. No snags. I'm still applying. At

18 this point, I'm, like, totally free.

19 THE COURT: Okay. And so you are available for a

20 six-week trial is what you are saying?

21 THE PROSPECTIVE JUROR: Yes. Yes, I am.

22 THE COURT: And what was the last job that you had?

23 Was that as a switchboard operator at an adult-assisted living

24 facility?

25 THE PROSPECTIVE JUROR: Yes, Your Honor. It was

Prospective Juror No. 57

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1 Sanford Home for Adults, front desk person.

2 THE COURT: Okay. All right. How long were you  
3 there?

4 THE PROSPECTIVE JUROR: The last time was for about  
5 nine months but I've been going back to that employment over  
6 the course of, I would say, six, seven years.

7 THE COURT: So you work there from time to time when  
8 they need you, is that it?

9 THE PROSPECTIVE JUROR: Well, it's not when they  
10 need me but -- actually, yes, it's when they need me. When  
11 they really need me, they put me on full time but this past  
12 time, they haven't called me back.

13 THE COURT: I see.

14 Now, you answered this question: Have you ever  
15 known anyone who you believe was falsely accused of sexual  
16 abuse or sexual assault of a minor or adult. You checked yes  
17 and said: My father before I was born but he was able to  
18 prove his innocence. I don't have contact with my father.

19 THE PROSPECTIVE JUROR: No, I don't.

20 THE COURT: So how did you know about this incident?

21 THE PROSPECTIVE JUROR: Because it was a story that  
22 my mom told me from when I was younger.

23 THE COURT: I see. So it was based on what your mom  
24 said?

25 THE PROSPECTIVE JUROR: Yes. This happened way

Prospective Juror No. 57

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1 before I was born.

2 THE COURT: I see. And do you think that knowing  
3 about this allegation, we'll call it an allegation here, would  
4 affect your ability to be fair and impartial in considering  
5 the evidence in this case?

6 THE PROSPECTIVE JUROR: Absolutely not.

7 THE COURT: Okay. Have you ever been on a jury  
8 before?

9 THE PROSPECTIVE JUROR: No, I have not.

10 THE COURT: And so do you live with members of your  
11 family?

12 THE PROSPECTIVE JUROR: Yes, I do.

13 THE COURT: Which members?

14 THE PROSPECTIVE JUROR: I live with my mother and my  
15 two brothers.

16 THE COURT: I see. In Flushing?

17 THE PROSPECTIVE JUROR: East Elmhurst to be exact.

18 THE COURT: East Elmhurst. Close enough.

19 All right. Do we have other questions?

20 MR. AGNIFILO: Nothing from us.

21 MS. PENZA: No, Your Honor.

22 THE COURT: Okay. Well, thank you very much for  
23 coming in. You have a nice day, sir.

24 THE PROSPECTIVE JUROR: You too, Your Honor.

25 (Prospective Juror No. 57 exits the courtroom.)

Prospective Juror No. 60

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1 THE COURT: Is there a motion?

2 MR. AGNIFILO: Nothing from us.

3 MS. PENZA: No, Your Honor.

4 THE COURT: All right. 57 is approved.

5 Juror 60.

6 Is there an issue in this case about whether this  
7 was in the newspaper?

8 MS. PENZA: There is, Your Honor.

9 (Prospective Juror No. 60 enters the courtroom.)

10 THE COURT: Please be seated, sir.

11 THE PROSPECTIVE JUROR: Good afternoon.

12 THE COURT: You are Juror No. 60?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: Welcome. I have just a few questions  
15 for you.

16 You are not employed currently?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: Are you a student?

19 THE PROSPECTIVE JUROR: Yes.

20 THE COURT: I see. Are you in college?

21 THE PROSPECTIVE JUROR: Oh, I'm not currently in  
22 this semester, but --

23 THE COURT: Okay. So you are available to be a  
24 juror?

25 THE PROSPECTIVE JUROR: Yes.

Prospective Juror No. 60

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1 THE COURT: Do you have a part-time job?

2 THE PROSPECTIVE JUROR: Seeking it.

3 THE COURT: You are seeking it? Okay.

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Okay. All right. Now, there is a  
6 question that you answered as follows.

7 There may be evidence in this case about  
8 fraternities, sororities, secret societies, rituals or cults.  
9 Would hearing about this type of evidence affect your ability  
10 to serve as a fair and impartial juror in this case? You  
11 answered yes and you explained: More so cults and rituals.  
12 Many in history have had tragic endings and show how --  
13 "inept"? -- infallible or inevitable humans are to resisting  
14 people.

15 What do you mean?

16 THE PROSPECTIVE JUROR: I guess you could say with  
17 cults, like, not necessarily, like, the leaders themselves but  
18 the followers.

19 THE COURT: What about them?

20 THE PROSPECTIVE JUROR: They're easy to manipulate.

21 THE COURT: I see. Okay. Have you studied cults?

22 THE PROSPECTIVE JUROR: Oh, no. I've just heard a  
23 few stories.

24 THE COURT: Stories. Okay. Now, the stories, you  
25 have heard stories, but can you put aside whatever you heard

Prospective Juror No. 60

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1 about cults in general and consider the evidence in this case  
2 solely on the basis of what you see and hear in court and be  
3 fair and impartial in considering that evidence when you have  
4 to decide on a verdict?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: The charges in this case involve  
7 allegations of, among other things, sex trafficking, forced  
8 labor, child pornography and child exploitation. Is there  
9 anything about the nature of these allegations that would make  
10 it difficult for you to be fair and impartial?

11 You checked "yes" and you said: "All allegations  
12 make me uneasy living with" certain "brothers" -- I can't tell  
13 what that word is -- "and having a niece."

14 What do you mean?

15 THE PROSPECTIVE JUROR: Well, there's always going  
16 to be, you know, like, sex crimes, but particularly with  
17 children, it just makes me feel a little uncomfortable.

18 THE COURT: Well, if evidence is presented involving  
19 allegations of a crime of a sexual nature with someone who is  
20 underage, do you believe that you could be fair and impartial  
21 in considering the validity of that allegation and that  
22 evidence and reach a verdict in consultation with your  
23 co-jurors that would be fair and impartial?

24 THE PROSPECTIVE JUROR: I'm not sure.

25 THE COURT: Why not?

Prospective Juror No. 60

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1 THE PROSPECTIVE JUROR: Like I said, the nature of  
2 it involving underage just makes me uncomfortable.

3 THE COURT: Do you have any religious,  
4 philosophical, moral or other belief that might make you  
5 unable to render a not guilty verdict? You said: Yes, using  
6 money, power to manipulate others into doing whatever you  
7 want, moral.

8 So what do you mean by that?

9 THE PROSPECTIVE JUROR: I find that when people have  
10 a lot of money, it's very easy to convince others to do many  
11 things, commit crimes, a lot of personal relatives to get  
12 something out of them, it could be insurance, it could be  
13 convincing them to give you their Social Security. There are  
14 so many examples but I believe money is power.

15 THE COURT: Any other questions?

16 MR. AGNIFILO: No questions, Your Honor.

17 MS. PENZA: No, Your Honor.

18 THE COURT: Okay. Thank you for coming in. Have a  
19 nice day.

20 THE PROSPECTIVE JUROR: You too.

21 (Prospective Juror No. 60 exits the courtroom.)

22 THE COURT: Is there a motion?

23 MR. AGNIFILO: Yes. We would move to excuse him for  
24 cause, Judge. I -- he hasn't shown --

25 THE COURT: Why?

Prospective Juror No. 60

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1 MR. AGNIFILO: Well, because Your Honor asked him if  
2 he could follow the law in this case and he said that the  
3 nature of the charges with underage, you know, children make  
4 him uncomfortable, and I think on a larger -- Your Honor's  
5 probably done as much of this as anybody. I think some people  
6 present as someone who can follow the Court's instruction  
7 clearly. I think some people present maybe not as much so. I  
8 think this young man presents not as much so and he said as  
9 much. So I just -- our motion is to excuse him for cause.

10 MS. PENZA: Your Honor, the government objects. The  
11 juror said that he was uncomfortable and, obviously, the  
12 charges in this case, I think, would make anybody  
13 uncomfortable and so that isn't the standard for a cause  
14 strike here. And, again, even the other question Your Honor  
15 asked, it's not really what this case is about so I don't  
16 think there is anything about his answers to your question,  
17 Your Honor, that indicate that he could not actually follow  
18 Your Honor's instructions.

19 THE COURT: One of the problems with a juror, and I  
20 appreciate everything everyone has said, is who is not  
21 terribly mature, which he is not, is that coming to grips with  
22 this kind of a situation, with this kind of factual pattern,  
23 is very difficult for anyone but I think it can be  
24 particularly difficult for someone of his age and experience  
25 and so what I have to grapple with is whether, you know, the



Prospective Juror No. 60

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1 fact that he has discomfort, discomfort to the point of being  
2 disqualified where he can't do the job.

3 I think, Mr. Agnifilo, that is basically what you  
4 are saying, that he probably can't do the job.

5 MR. AGNIFILO: Yes.

6 THE COURT: And I think it is difficult to reach  
7 that conclusion one way or another. Did you want to say more?

8 MR. AGNIFILO: I think at one point, he actually  
9 even said he didn't think he could be fair. And so I think  
10 he's, he's basically saying that there are certain things in  
11 his experience or his conception of himself that not only  
12 makes him uncomfortable because of the nature of the  
13 allegations, but I think is casting some doubt on his ability  
14 to be fair and I think taken together -- I mean, there are  
15 certain jurors who, you know, they struggle with certain  
16 things and it's okay because they're going to listen to the  
17 Court. I'm not -- I don't feel as comfortable with this juror  
18 as some others.

19 I think on balance, I make the motion to challenge  
20 him for cause.

21 (Continued on next page.)  
22  
23  
24  
25

Prospective Juror No. 61

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1 (continuing.)

2 MS. PENZA: The Government continues to object  
3 despite Mr. Agnifilo's discomfort with him.

4 THE COURT: It's only his discomfort that I am  
5 concerned about.

6 MS. PENZA: Yes. The Government --

7 THE COURT: Meaning the juror's.

8 MS. PENZA: The Government believes there is no  
9 basis for him to be stricken for cause.

10 THE COURT: I will let you know.

11 MS. PENZA: Thank you, Your Honor.

12 THE COURT: Okay. Here we go. 61.

13 (Prospective juror enters.)

14 THE COURT: Please be seated, sir. Good afternoon.  
15 You are Juror No. 61?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: You indicated that you had been laid off  
18 and you are back at work; right?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Do you work for a private entity?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: And do you know what their position is  
23 about paying you for jury service?

24 PROSPECTIVE JUROR: They will not pay.

25 THE COURT: And would jury service be a hardship for

Prospective Juror No. 61

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1 you?

2 PROSPECTIVE JUROR: Yes, it would.

3 THE COURT: Why is that?

4 PROSPECTIVE JUROR: I just bought my house last year  
5 and the bills are getting tight because I spent my money while  
6 I was laid off so that's the reason I would have a hardship.

7 THE COURT: What kind of work do you do?

8 PROSPECTIVE JUROR: I'm a surveyor, a construction  
9 surveyor.

10 THE COURT: What and what does a construction  
11 surveyor do?

12 PROSPECTIVE JUROR: We lay out lines, access lines,  
13 and elevations for whatever they're building.

14 THE COURT: So that it's straight?

15 PROSPECTIVE JUROR: Yes. And so it hopefully won't  
16 fall down.

17 THE COURT: Do you get these jobs through your  
18 union?

19 PROSPECTIVE JUROR: My company is private so they  
20 have to bid on each job and it's been tough lately for them  
21 getting jobs. There's a lot of nonunion companies getting  
22 these jobs so they were slow. So that's why I was laid off  
23 for four and a half months. The winter is usually when it  
24 happens so I just started working again.

25 THE COURT: Any questions for the juror?

Prospective Juror No. 62

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1 MR. AGNIFILO: No, Your Honor.

2 MS. PENZA: No, Your Honor.

3 THE COURT: I want to thank you for coming in, sir.

4 You have a good day.

5 PROSPECTIVE JUROR: Thank you.

6 (Prospective juror exits.)

7 THE COURT: Any motion?

8 MR. AGNIFILO: We move to strike the juror based on  
9 a hardship.

10 MS. PENZA: No objection.

11 THE COURT: Juror No. 61 is struck for cause.

12 (Prospective juror enters.)

13 THE COURT: All right, 62. Please be seated, sir.  
14 You are Prospective Juror No. 62; correct?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Now, you work full-time; correct?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: And you work for a private company?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: And you weren't sure whether you would  
21 be paid for your jury service. Did you check?

22 PROSPECTIVE JUROR: Yes, for two weeks of it.

23 THE COURT: Well, if you are not paid for the other  
24 four weeks, would that constitute a hardship for you?

25 PROSPECTIVE JUROR: I suppose I could say it would.

Prospective Juror No. 62

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1 It would be a decent amount of wages that I would be losing.

2 THE COURT: Well --

3 PROSPECTIVE JUROR: I have a mortgage, and --

4 THE COURT: You feel the pressure would be on you,  
5 is that a financial kind of hardship?

6 PROSPECTIVE JUROR: I carry a mortgage by myself.

7 THE COURT: So it is just you?

8 PROSPECTIVE JUROR: Yeah.

9 THE COURT: Any questions?

10 MR. AGNIFILO: No.

11 MS. PENZA: No, Judge.

12 THE COURT: Okay. Thanks very much for coming in.

13 (Prospective juror exits.)

14 THE COURT: Is there a motion?

15 MR. AGNIFILO: We move to excuse the juror for cause  
16 based on a hardship.

17 MS. PENZA: Your Honor, the juror has a relatively  
18 high salary and his fiancée also works. So the Government --  
19 it is not clear -- and he was also equivocal as to whether it  
20 would actually be a hardship so the Government doesn't believe  
21 there is actually a hardship here.

22 THE COURT: The problem the Court has is that if in  
23 the middle of the trial a juror comes back and says I have a  
24 hardship and I am not able to pay the mortgage, I don't want  
25 to stop the trial or excuse a juror in the middle.

Prospective Juror No. 62

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1 MS. PENZA: Neither do we, Your Honor. But that  
2 does not appear to be the case. As Your Honor has stated,  
3 there will be six alternates and hopefully none would need to  
4 be used and that's why we're empaneling six alternates, if  
5 there is a situation.

6 THE COURT: He was equivocal about whether it was an  
7 actual hardship. He did not come on strong about it, but I  
8 have a concern when somebody says they might have difficulty  
9 paying the mortgage.

10 MS. PENZA: Perhaps Your Honor would inquire  
11 concerning his fiancée.

12 THE COURT: He basically said he was doing it alone.

13 MS. PENZA: But it didn't seem necessarily  
14 consistent that he has a fiancée who is working full-time.  
15 I'm not sure what his exact situation is.

16 THE COURT: I see.

17 Anything else?

18 MR. AGNIFILO: My concern is the Court's concern in  
19 that in week four when he hasn't been paid in two weeks and he  
20 has bills due, he's going to become distracted or a problem  
21 and we have to replace him with an alternate and while it's  
22 nice to have six alternates, I'd hate to put someone in that  
23 is not going to be paid for a month. I think it's a stressful  
24 situation.

25 THE COURT: Because he was equivocal about it, I am

Prospective Juror No. 64

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1 going to overrule the objection and I find him qualified.

2 MS. PENZA: Thank you, Your Honor.

3 THE COURT: And that is number 62. Okay. Number  
4 64.

5 (Prospective juror enters.)

6 THE COURT: Please be seated, sir. You are Juror  
7 No. 64; correct?

8 PROSPECTIVE JUROR: Yes, 64.

9 THE COURT: And you're employed full-time?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: And will you be paid for your jury  
12 service by your employer?

13 PROSPECTIVE JUROR: They didn't tell me yet, but I  
14 can take some vacation off. I have so many vacation.

15 THE COURT: I see, so you have no problem serving  
16 for the six weeks?

17 PROSPECTIVE JUROR: Yeah, no, I don't have.

18 THE COURT: Okay. "How important is your faith to  
19 you?" And you said, "Extremely important and I make major  
20 life decisions based on faith." Do you remember that  
21 question?

22 PROSPECTIVE JUROR: I don't remember it because last  
23 time I was quite nervous I was trying to answer as --

24 THE COURT: Well, I will read you the question again  
25 and you can tell me what your answer is.

Prospective Juror No. 64

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1 PROSPECTIVE JUROR: Okay.

2 THE COURT: "How important is your faith, if any, to  
3 you; extremely important, and I make major life decisions  
4 based on my faith; important, but I consider other issues; not  
5 very important?" So which one is it?

6 PROSPECTIVE JUROR: Important.

7 THE COURT: So it is important?

8 PROSPECTIVE JUROR: Yeah.

9 THE COURT: All right. Do you think your faith  
10 would affect in any way how you view evidence and judge a  
11 case?

12 PROSPECTIVE JUROR: In what way?

13 THE COURT: Would it affect your ability to judge  
14 the facts of a case in court?

15 PROSPECTIVE JUROR: I think so.

16 THE COURT: Well, in what way would it affect your  
17 ability to be fair and impartial at all?

18 PROSPECTIVE JUROR: It depends. It depends on the  
19 situation, I think.

20 THE COURT: Well, witnesses will come to court and  
21 we will hear them testify; right?

22 PROSPECTIVE JUROR: Right.

23 THE COURT: And then you will have to make a  
24 decision based on the evidence that you believe is probable,  
25 whether the defendant has committed the crimes which he is



Prospective Juror No. 64

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1 accused of; right?

2 PROSPECTIVE JUROR: Yeah.

3 THE COURT: And you will have to decide with the  
4 other jurors whether the defendant is guilty beyond a  
5 reasonable doubt for the crimes he is accused of, you  
6 understand that?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: And, so, would your faith affect or  
9 interfere with how you would consider that evidence?

10 PROSPECTIVE JUROR: It depends how -- it's, like,  
11 both sides submit all documents where I had to see and  
12 understand how the situation and then I would know if he's  
13 guilty. If he's guilty, if he's bad or good or something.

14 THE COURT: It's the question of the evidence that  
15 is submitted to you, the jury, and what you believe and  
16 whether you believe that the evidence that you find correct or  
17 credible is enough to find the defendant guilty. Can you do  
18 that?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: There's a question here, "Would you be  
21 able to listen to and discuss matters of a sexual nature with  
22 fellow jurors?"

23 PROSPECTIVE JUROR: Yes, I would.

24 THE COURT: You would? Here you said you didn't  
25 know but you think you would?

Prospective Juror No. 64

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1 PROSPECTIVE JUROR: I would because before I was --  
2 I never hear this kind of a case before for any kind of -- in  
3 my life, but last time I was thinking I choose yes.

4 THE COURT: Okay. There is another question, "You  
5 may hear allegations involving immigration impropriety. What  
6 are your beliefs and opinions on the subject of immigration.  
7 Would those opinions impact your ability to be fair and  
8 impartial? Explain." And you say, "Yes," and you say, "A lot  
9 of immigrants are good people, they work, pay taxes for this  
10 country." Is that your view?

11 PROSPECTIVE JUROR: Yes, because a lot of immigrants  
12 are good because for me, I'm immigration too. I follow the  
13 law. We pay tax. We are good peoples.

14 THE COURT: Okay. Well, thank you.  
15 You're welcome.

16 THE COURT: Any other questions here?

17 MR. AGNIFILO: Nothing from us.

18 MS. PENZA: No, Your Honor.

19 THE COURT: Okay. Thank you for coming in. Have a  
20 nice day, sir.

21 PROSPECTIVE JUROR: Thank you, sir.

22 (Prospective juror exits.)

23 THE COURT: Does anyone have a motion? Hearing  
24 none --

25 MR. AGNIFILO: No, no motion.

Prospective Juror No. 73

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1 THE COURT: 64 is approved. 73 is next.

2 (Prospective juror enters.)

3 THE COURT: Please be seated.

4 PROSPECTIVE JUROR: Good afternoon.

5 THE COURT: You are Juror No. 73?

6 PROSPECTIVE JUROR: I am.

7 THE COURT: I just have a few questions. Your  
8 employer pays for your jury service entirely?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: There's a question, "Do you believe that  
11 people under 17 should be able to consent with sex with  
12 adults?" And you say, "Yes. Plenty of my friends at 17, 16  
13 years old had adult relationships."

14 PROSPECTIVE JUROR: Yes. I want to elaborate on  
15 that because that's the question that has been eating at me  
16 since I have a 16-year-old daughter. I would certainly not  
17 have the same answer from that perspective. Being a  
18 17-year-old and your friends -- it seems okay. Being an adult  
19 and having a daughter, not so much.

20 THE COURT: Well, let me ask you this, if the Court  
21 instructs you that under the law, sex with a 15 year old is  
22 illegal and you are considering whether there is evidence that  
23 the individual committed an illegal act with a 15 year old,  
24 having sex with a 15 year old who is below the age of consent,  
25 would you is accept the law as the Court gives it to you and

Prospective Juror No. 73

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1 apply that law in considering the facts of the case as you  
2 find them?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Okay. So, next. You indicated that you  
5 had heard or read something about the case before you filled  
6 out the questionnaire. Did you read something or see it on TV  
7 or on the internet? Do you remember where you saw this?

8 PROSPECTIVE JUROR: Well, the night before jury  
9 selection I heard on the news that there was going to be jury  
10 selection for this case and, you know, I've heard tidbits  
11 about it. I couldn't even tell you how long ago when this  
12 first came up, but I certainly heard a few things when it was  
13 in the news and really nothing subsequent to that.

14 THE COURT: Whatever you heard, do you think you  
15 could brush that aside and consider the facts in this case;  
16 only consider the facts that are presented here in court in  
17 considering your verdict?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Other questions?

20 MR. AGNIFILO: No, nothing.

21 MS. PENZA: No, Your Honor.

22 THE COURT: Thank you for coming in. You have a  
23 nice day?

24 PROSPECTIVE JUROR: You too.

25 (Prospective juror exits.)

Prospective Juror No. 73

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1 THE COURT: Any motion.

2 MR. AGNIFILO: None.

3 MS. PENZA: No, Your Honor.

4 THE COURT: All right. Juror No. 73 is approved.

5 There are two more jurors who are here, 38 and 63.

6 We're going to take a five-minute break, but before we do  
7 that, when will I have the response to today's suppression  
8 motion?

9 MS. PENZA: Your Honor, if the Government could  
10 update the Court later this evening we would appreciate it.  
11 We have not had time to --

12 THE COURT: I understand that. Why don't you let me  
13 know first thing in the morning after you send me your  
14 questions for the next set of jurors.

15 MS. PENZA: Yes, Your Honor.

16 THE COURT: You too.

17 MR. AGNIFILO: Yes, Your Honor.

18 THE COURT: Let's take a five-minute break.

19 (Recess taken.)

20

21 (Continued on the following page.)

22

23

24

25

Jury Selection

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1 (Continuing.)

2 THE COURT: Let's bring in the two jurors.

3 MR. AGNIFILO: They're bringing Mr. Ranieri out  
4 right now.

5 THE COURT: All right, let's wait. You can be  
6 seated, everyone.

7 (Prospective jurors enter.)

8 THE COURT: Please be seated. You can just take any  
9 chair.

10 Good afternoon. I'm Judge Garaufis. You both  
11 filled out a questionnaire back on the 8th or so of April, and  
12 I will be trying this case beginning May 7. It's a Tuesday.

13 Before I ask you questions, I'm going to have to do  
14 it one at a time and starting with Juror No. 38.

15 Who is 38? You, sir.

16 And you are 63?

17 THE PROSPECTIVE JUROR: Yes.

18 THE COURT: Juror 63 can wait in the jury  
19 deliberation room while I question 38.

20 THE PROSPECTIVE JUROR: Okay.

21 THE COURT: But not yet. Don't go yet.

22 THE PROSPECTIVE JUROR: Okay.

23 THE COURT: At the Government table are Assistant  
24 U.S. Attorneys Moira Penza, Tanya Hajjar, and Mark Lesko, and  
25 they're joined by Michael Wenniger of the FBI, the case agent

Jury Selection

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1 for this case.

2 The Defendant, Mr. Raniere, Keith Raniere, is at the  
3 defense table and is represented by Marc Agnifilo, Teny  
4 Geragos, Paul DerOhannesian, and Danielle Smith.

5 Now, Keith Raniere, the Defendant, is the only  
6 Defendant who will stand trial before this jury that's being  
7 assembled. So, please do not speculate as to why this is the  
8 case.

9 I'm going to tell you a little bit about how we're  
10 going to handle jury selection. Today you will be asked some  
11 follow-up questions based on your questionnaires. The trial  
12 will begin on or about Tuesday, May 7, and last up to six  
13 weeks. The Court will provide a schedule of trial days before  
14 the trial starts; in other words, you'll know what days you'll  
15 be on trial. At the very beginning of the trial, you'll get a  
16 schedule. So, please continue to call in to the jury  
17 information phone line as instructed by the jury clerk.

18 I'm going to remind you that it's very important  
19 that you follow my instruction that you do not discuss this  
20 case with anyone, not your family or, your business  
21 associates, and not with other jurors. In addition, you must  
22 not read, listen to, watch, or access any accounts of this  
23 case on any form of media, such as newspapers, TV, radio,  
24 podcasts, or the internet, nor research or seek outside  
25 information about any aspect of this case.

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1           Please do not communicate with anyone about the case  
2 on your phone, whether through e-mail, text messaging, or any  
3 other means; through any blog or website; or by way of any  
4 social media, including Facebook, Twitter, Instagram, YouTube,  
5 or other similar sites.

6           You must not consider anything you may have read or  
7 heard about the case outside of this courtroom whether you  
8 read it before or during the voir dire. Voir dire is jury  
9 selection.

10           Do not attempt any independent research or  
11 investigation about this case and do not visit any of the  
12 locations identified in the questionnaire or discussed during  
13 the course of the jury selection process.

14           So, that's very important in order that the only  
15 evidence that you will consider is the evidence that you  
16 receive from the witnesses and documentary evidence, pieces of  
17 evidence, that you read or look at here in court. And this is  
18 all very important so that the Defendant receives a fair  
19 trial, which is everyone's objective in this court, both  
20 sides.

21           So, with that, I'm going to ask Juror No. 63 to go  
22 to the jury deliberation room, and we'll be with you  
23 momentarily. Thank you very much.

24           (Prospective juror exits.)

25           THE COURT: You're Juror No. 38, correct?



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1 THE PROSPECTIVE JUROR: I am, yes.

2 THE COURT: Welcome.

3 You indicated that you're employed full-time; is  
4 that right?

5 THE PROSPECTIVE JUROR: Yes, full-time.

6 THE COURT: As a doorman.

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: And, so, you're employed by a private  
9 employer, which is a residence, an apartment building.

10 THE PROSPECTIVE JUROR: Apartment building, yes.

11 THE COURT: Do you know whether you'll be paid for  
12 your jury service?

13 THE PROSPECTIVE JUROR: I told the company.

14 THE COURT: And what did the company say?

15 THE PROSPECTIVE JUROR: They said how much you want  
16 to pay first to me and they will pay the rest.

17 THE COURT: Did you tell them that it was a trial  
18 that would last six weeks?

19 THE PROSPECTIVE JUROR: No, I didn't tell them.

20 THE COURT: So, you don't know whether they would  
21 pay you for the full six weeks?

22 THE PROSPECTIVE JUROR: I don't know.

23 THE COURT: I'm sorry?

24 THE PROSPECTIVE JUROR: I don't know, they pay me.  
25 They pay me six weeks.

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1 THE COURT: Could you please ask them whether  
2 they're going to pay you for the full time you're on trial;  
3 will you ask them that question, please?

4 THE PROSPECTIVE JUROR: They say they're going to  
5 pay me.

6 THE COURT: They said they're going to pay you?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: You can double-check on that.

9 THE PROSPECTIVE JUROR: Okay.

10 THE COURT: And then contact Mr. Reccoppa. He'll  
11 give you his phone number so that we can be sure, all right?

12 THE PROSPECTIVE JUROR: Okay.

13 THE COURT: Now, I have a few questions.

14 Are you married?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: And what does your spouse do for a  
17 living?

18 THE PROSPECTIVE JUROR: Excuse me?

19 THE COURT: What does she do for a living?

20 THE PROSPECTIVE JUROR: My wife is a housekeeper.

21 THE COURT: Does she work for a company or does she  
22 work for herself?

23 THE PROSPECTIVE JUROR: For herself.

24 THE COURT: Does she work full-time or part-time?

25 THE PROSPECTIVE JUROR: Part-time.

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1 THE COURT: Now, there's a question that you  
2 overlooked. I'm going to read it to you, so listen: Some  
3 government witnesses may testify that they participated in  
4 serious crimes themselves, including forced labor and identity  
5 theft. These witnesses, who may be referred to during the  
6 trial as "cooperating witnesses," may have pleaded guilty to  
7 crimes and may be testifying pursuant to agreements with the  
8 Government in hopes that their own sentences would be reduced.

9 Do you have any opinions or beliefs or feelings  
10 about a witness seeking a reduced sentence by cooperating that  
11 would make it difficult for you to fairly and impartially  
12 consider that testimony or render a guilty verdict based upon  
13 the testimony of that cooperating witness?

14 Do you understand the question?

15 THE PROSPECTIVE JUROR: No, I'm sorry.

16 THE COURT: Some people who are going to testify at  
17 the trial have entered into plea agreements with the  
18 Government and they have agreed to cooperate with the  
19 Government and to testify against the Defendant.

20 THE PROSPECTIVE JUROR: Uh-huh.

21 THE COURT: And the question is, do you have any  
22 feelings that would make it difficult for you to fairly and  
23 impartially consider the testimony of a cooperating witness?

24 THE PROSPECTIVE JUROR: It would be difficult.

25 THE COURT: It would be difficult?

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1 THE PROSPECTIVE JUROR: Yeah.

2 THE COURT: Why is that?

3 THE PROSPECTIVE JUROR: Because that's testimony.

4 THE COURT: You have to speak up. I can't hear you.

5 THE PROSPECTIVE JUROR: It's difficult.

6 THE COURT: Because?

7 THE PROSPECTIVE JUROR: Because that's testimony.

8 THE COURT: What about the testimony would you have  
9 a problem with?

10 THE PROSPECTIVE JUROR: I don't know what kind of  
11 testimony is done.

12 THE COURT: Are there other questions?

13 MS. PENZA: No, Your Honor.

14 MR. AGNIFILO: No, thank you, Judge.

15 THE COURT: Thank you very much for coming in. You  
16 have a nice day, sir.

17 THE PROSPECTIVE JUROR: Thank you.

18 (Prospective juror exits.)

19 MR. AGNIFILO: I am concerned that he wasn't  
20 understanding your Honor's questions and I was concerned he  
21 wasn't able to articulate certain things that maybe he wanted  
22 to say.

23 It's a complicated case with racketeering charges,  
24 so I think on balance we'd move to strike him for cause.

25 THE COURT: Do you agree?

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1 MS. PENZA: Yes, Your Honor.

2 THE COURT: I agree as well.

3 I think that there are certain limits that appear to  
4 be in his understanding in English. If I spoke Spanish, I  
5 think I might be able to communicate more completely with him.  
6 But since this trial is going to be in English, I wouldn't  
7 want him to have a misunderstanding of any of the testimony  
8 because that would not be in the interest of justice.

9 So, your motion is granted. Juror No. 38 is struck  
10 for cause.

11 Okay. Juror 63 is next.

12 (Prospective juror enters.)

13 THE COURT: You're Juror No. 63, are you not?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: I'm going to ask you a few follow-up  
16 questions.

17 You're working full-time; is that right?

18 THE PROSPECTIVE JUROR: Yes, sir.

19 THE COURT: What kind of work do you do?

20 THE PROSPECTIVE JUROR: I'm a nurse technician.

21 THE COURT: Do you work at a hospital?

22 THE PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Will you be paid for your jury service?

24 THE PROSPECTIVE JUROR: I believe so.

25 THE COURT: Speak up, please.

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1 THE PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Is it a large hospital or a small  
3 hospital?

4 THE PROSPECTIVE JUROR: Very large.

5 THE COURT: Very large. All right.

6 Now, there's a question here. The question is: How  
7 important is your faith, if any, to you?

8 And you said: Extremely important and I make major  
9 life decisions based on my faith.

10 Is that right?

11 THE PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: Now, would you have any difficulty  
13 considering the facts in this case, which involves many  
14 issues, such as abortion?

15 Well, let's put it this way: Abortions will be  
16 discussed. It's not a case about abortion specifically, but  
17 the issue of abortions having been experienced by certain  
18 people is one issue, and then the question of sexual  
19 exploitation of children is going to be an issue in the case,  
20 and there are other controversial issues.

21 Would you have any difficulty deciding this case  
22 based on the facts that are developed during the course of  
23 testimony in the case; in other words, could you be fair and  
24 impartial in considering all of the evidence and following the  
25 law as I give it to you?

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1 THE PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: You would have no problem with that?

3 THE PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: Would your faith impact how you would  
5 consider these things?

6 THE PROSPECTIVE JUROR: Well, we don't accept  
7 abortion.

8 THE COURT: I see.

9 THE PROSPECTIVE JUROR: It's not acceptable because  
10 it's a life, you're dealing with a life.

11 THE COURT: But would you be able to decide the case  
12 based on the law as I give it to you?

13 For instance, if there's evidence of abortions,  
14 would you be prejudiced against someone who authorized an  
15 abortion just by virtue of having authorized the abortion?

16 THE PROSPECTIVE JUROR: In some way.

17 THE COURT: In what way?

18 THE PROSPECTIVE JUROR: Like I said, abortion is  
19 taking a life. So, it's, to me, my faith, we don't accept  
20 that.

21 THE COURT: All right. That's fine.

22 If I instruct you that if an abortion or abortions  
23 took place, that is not a basis for you to find that the  
24 Defendant engaged in certain illegal activities, would you  
25 follow the law?

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1 THE PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Would you be able to listen to and  
3 discuss matters of a sexual nature with your fellow jurors  
4 when you're deliberating?

5 THE PROSPECTIVE JUROR: If I would discuss it with  
6 them?

7 THE COURT: Well, if there were issues in the case  
8 of a sexual nature, would you be able to discuss those in  
9 private with the other jurors in consideration of your  
10 decision?

11 THE PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: There may be evidence in this case about  
13 people who do not pay taxes.

14 Do you have any opinions regarding people who do not  
15 pay taxes that would affect your ability to serve as a fair  
16 and impartial juror in this case?

17 THE PROSPECTIVE JUROR: No, sir.

18 THE COURT: Let me ask you this: An indictment is  
19 not itself evidence, it merely describes the charges made  
20 against the Defendant. It's an accusation. An indictment is  
21 an accusation. Mr. Ranieri has been charged in an indictment  
22 of certain things, but it's only an accusation. The  
23 indictment may not be considered by you as any evidence of the  
24 Defendant's guilt.

25 Are you able to follow this rule of law?



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1 THE PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Any other questions?

3 MR. AGNIFILO: No, Judge.

4 THE COURT: Any questions?

5 MS. PENZA: No, Your Honor.

6 THE COURT: Okay. Thank you for coming in. You  
7 have a nice day.

8 THE PROSPECTIVE JUROR: Thank you, sir.

9 THE COURT: You're welcome.

10 (Prospective juror exits.)

11 MR. AGNIFILO: No motion.

12 MS. PENZA: No, Your Honor.

13 THE COURT: Okay. Juror 63 is approved. I think  
14 that's it for today.

15 Does either side have anything else for today?

16 MR. AGNIFILO: The only issue, it would be very  
17 helpful at the earliest opportunity, now that we have one  
18 Defendant and we know what the trial is going to look like, is  
19 to try to have a witness list as soon as possible. I imagine  
20 the Government knows who they are going to call. We'll keep  
21 it under wraps, it would be subject to the protective order.

22 But we have 3500 from I don't know how many  
23 witnesses, but way more witnesses than can be called in a  
24 six-week trial. Way more. So, I'm imagining that the  
25 Government is going to call maybe a tenth of the people that

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1 we have 3500 on. So, the witness list would just be very  
2 helpful.

3 THE COURT: I see.

4 MS. AGNIFILO: We're all talking about streamlining  
5 the trial. That would be one of the ways.

6 MS. PENZA: The Government objects to providing a  
7 witness list. We don't understand that to be common practice.  
8 And what we have said that we will do is we will notify the  
9 Defendant within 48 hours of the witnesses that we intend to  
10 call, and we think that is highly appropriate.

11 And obviously, Your Honor, we produced significant  
12 3500 based on requests made by Mr. Agnifilo about wanting  
13 certain material, so that, obviously, should not go into the  
14 calculus as to why we should have to produce a witness list.

15 THE COURT: All right, I hear you, but I'm not going  
16 to ask the Government to produce the witness list that far in  
17 advance; 48 hours might not be enough, but I'll think about  
18 it.

19 So, we finished early, which means you can all rush  
20 back to your offices and send me your questions for tomorrow.

21 MS. PENZA: Yes, Your Honor.

22 THE COURT: So, there's a prize. There's a prize  
23 for the first side that sends in --

24 Stop.

25 MR. AGNIFILO: We won. We already won, Judge.

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1 We're done.

2 THE COURT: You're done?

3 MS. PENZA: They multitasked.

4 THE COURT: There's also a second prize.

5 MR. AGNIFILO: The silver medal.

6 THE COURT: The silver.

7 But I also need to know about when you can respond  
8 to the motion to suppress.

9 MS. PENZA: Yes, Your Honor, do you want that --  
10 sorry, earlier I think you said we could let you know in the  
11 morning.

12 THE PROSPECTIVE JUROR: That's fine in the morning,  
13 but I'd like to have the questions as early this evening as  
14 possible.

15 MS. PENZA: Absolutely, Your Honor.

16 THE COURT: All right. Thank you everybody.

17 MS. PENZA: I'm sorry, Your Honor, may I ask one  
18 additional question?

19 I believe -- this was a question both defense  
20 counsel and the Government had, if Your Honor has an  
21 understanding right now of how many qualified jurors we  
22 actually --

23 THE COURT: I'm shooting for 60.

24 Well, let's talk about the schedule of doing the  
25 final peremptories. I think what we may want to do is have

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1 the peremptories as close to the start date as possible  
2 because we may have some falloff. There may be a couple  
3 people who discover that they have tickets for a trip to  
4 Europe that they forgot about or some other such thing.

5 So, my hope is that we can have the final challenges  
6 and seat the jury on the 6th of May and start with opening  
7 statements on the 7th. The jurors will be given their  
8 instructions, the marshals will have the opportunity to work  
9 out the transportation issues, and then we can start the trial  
10 on the 7th.

11 Does that seem to work?

12 MS. PENZA: Yes, it does, Your Honor.

13 MR. AGNIFILO: That's fine, Judge, thank you.

14 THE COURT: So, I would think that since we need 40  
15 jurors to seat the 12-member jury and we need 12 to pick the 6  
16 alternate jurors, that's how we're going to do it.

17 Any other questions for today?

18 MR. AGNIFILO: Nothing from us.

19 MS. PENZA: No, Your Honor.

20 THE COURT: Thank you very much.

21

22 (Matter adjourned until Tuesday, April 23, 2019, at  
23 9:30 a.m.)  
24  
25